



Part



Volume



Chapters **IX–XI**

UKRAINE'S ANSWERS
to the EU Questionnaire
on the Application
for Membership

MAY 2022

RESPONSES



to the Questionnaire on
Information requested by the
European Commission to the
Government of Ukraine for
the preparation of the
Opinion on the application of
Ukraine for membership of
the European Union

Part II
Volume II
Chapters IX–XI

May 2022

CHAPTER 9: FINANCIAL SERVICES

I. BANKS AND FINANCIAL CONGLOMERATES

A. General questions

1. What is the situation with regard to right of establishment and cross-border supplies of services in Ukraine for EU credit institutions? Which conditions apply? Are there specific conditions regarding the opening of branches by foreign banks? Regarding the establishment of a foreign subsidiary?

The Law of Ukraine No. 2121-III *On Banks and Banking*¹ dated 7 December 2000 (hereinafter – the Law *On Banks and Banking*) is the main piece of legislation defining regulatory framework for establishment, registration, operation, reorganization and liquidation of banks, including the establishment and operation of branches and representative offices of foreign banks in Ukraine.

The banking system of Ukraine consists of the National Bank of Ukraine (hereinafter – the NBU) and other banks, as well as the branches of foreign banks, which have been established and operate on the territory of Ukraine in compliance with the Law *On Banks and Banking* provisions and those of other laws of Ukraine. Also, Ukrainian law allows to open banks with foreign capital, meaning a bank where the share of capital, owned by at least one foreign investor is not less than 10 percent.

The provisions of the Law *On Banks and Banking* and regulations of the NBU apply both to banks and foreign bank branches. The provisions of the Law *On Banks and Banking* apply to the representative offices of foreign banks operating in the territory of Ukraine, unless otherwise established by the effective international treaties (agreements) ratified by the Verkhovna Rada of Ukraine.

Article 24 of the Law *On Banks and Banking* sets forth a procedure for establishment of foreign bank branches and representative offices in the territory of Ukraine. Foreign banks have the right to open branches and representative offices in the territory of Ukraine.

Please see a table of the main authorization requirements to establish a branch of the foreign bank in Ukraine. The branch's authorization procedure is known as accreditation.

Capital requirement	UAH 120 mln (as of 01.04.2022)
Requirements for qualifying shareholders of the foreign bank and foreign bank itself (who owns more than 10% of bank's shares)	The foreign bank and its qualifying shareholders must be fit and proper (in context of their reputation and their financial position)
Management is presented by	Director and chief accountant

¹ https://bank.gov.ua/admin_uploads/law/Law_BB_eng.pdf?v=4

Other mandatory personnel	Chief compliance officer, chief risk officer and head of internal audit
AML	AML officer
Requirements abovementioned people for	Director, chief accountant, chief compliance officer, chief risk officer, head of internal audit and AML officer must be fit and proper in terms of reputation and professional suitability
Procedures abovementioned people for	Director, chief accountant, chief compliance officer, chief risk officer, head of internal audit and AML officer must be approved by the NBU
Specific requirements	<p>Country where foreign bank is registered meets following conditions:</p> <ol style="list-style-type: none"> 1. there are no significant reservations from the international authorities on implementation of international standards in the field of AML/CFT; 2. the supervision, including consolidated one, meets Basel principles; 3. there are no local law provisions that could hinder / limit interaction between the NBU and foreign regulator.

In order to obtain the accreditation in a form of the banking license the foreign bank must submit to the NBU set of documents, which are the following:

1. a request to establish the branch
2. a document confirming registration of the foreign bank
3. a decision of foreign bank to establish the branch
4. a regulation of the branch
5. foreign bank's decision on the appointment of the management and mandatory personnel
6. information proving that management and mandatory personnel are fit & proper
7. a copy of the foreign bank's charter
8. financial statements of a foreign bank for the last three years, confirmed by an independent auditor
9. a foreign regulator's written approval to establish the Branch (confirmation if the regulator does not issue an approval)
10. foreign regulator's notification on conducting the supervision under the foreign bank
11. foreign bank's a written commitment to unconditionally fulfil its obligations arising in connection with the activities of its branch
12. documents confirming formation of the branch's capital (including copies of payment documents)
13. copy of a receipt for payment of the fee for accreditation of the branch
14. copies of internal regulations (their list) governing the provision of banking and other financial services, determine the procedure for internal control and risk management procedure

15. information on organization structure and presence of required specialists for conducting banking activities; required banking, computer equipment, software, and premises
16. business plan for current and 3 following years
17. information of impeccable business reputation of the foreign bank
18. information on qualifying shareholders of the foreign bank
19. auditor's / consultant's opinion on the amount of the foreign bank's own funds (this opinion is not provided if the foreign bank has an investment level of credit rating).

The accreditation procedure of the branch lasts up to 3 months. The NBU has a right to suspend the term of consideration, but not more than 30 days. Also, it has a right to request additional information and/or documents if needed with suspension of the term of the consideration.

Additionally, accreditation covers: (1) approval of director, chief accountant, chief compliance officer, chief risk officer and head of internal audit and AML officer, (2) assessment of the fit and proper of qualifying shareholders of the foreign bank and the foreign bank itself, (3) approval of the Branch regulation.

Please consider that in day-to-day activities the branch must comply with the same requirements as a bank.

There are no specific rules regarding the establishment of a foreign subsidiary. In that case, a foreign bank (meaning a bank where the share of capital, owned by at least one foreign investor is not less than 10 %) will follow the general procedure for establishing a bank in Ukraine.

2. Are foreign credit institutions, once authorised, treated in every respect as a domestic undertaking?

Pursuant to Article 3 the Law *On Banks and Banking*, the provisions of this Law and the NBU regulations apply to both banks and foreign bank branches. The Law *On Banks and Banking* gives foreign banks the right to operate in Ukraine through their branches and representative offices registered (accredited) in accordance with the procedures established by the national legislation of Ukraine.

Under the law, a bank with foreign capital (meaning a bank where the share of capital, owned by at least one foreign investor is not less than 10 percent) is a resident of Ukraine.

Activity of the foreign bank branch shall meet the requirements set by the Law *On Banks and Banking* and the NBU regulations. It also should be taken into account that the NBU shall regulate activity and set the economic ratios for foreign banks' branches according to the requirements of the Ukrainian laws.

Credit institutions within the meaning of Article 3 (1) of Directive 2013/36/EU (Capital Requirements Directive, CRD IV) and point 1 of Article 4 (1) of Regulation (EU) No. 575/2013 (Capital Requirements Regulation, CRR) cover not only banks but also credit unions.

Organizational and legal frameworks for establishing a credit union and its activities are set by the Law of Ukraine No. 2908-III *On Credit Unions* dated 20 December 2001 (hereinafter – the Law *On Credit Unions*). Pursuant to the above Law, the credit unions in Ukraine are cooperative enterprises providing financial services exclusively to their members. A credit union may be

established by Ukrainian citizens, foreigners, and stateless persons that are permanent residents in Ukraine and share at least one of the following attributes: place of work or study, are members of the same trade union, association of trade unions, other nongovernmental or religious organizations, or reside in one village, town, city, district, or oblast.

It means that a credit union established in Ukraine may not provide financial services in the territories of other countries.

Under Article 4 of the Law of Ukraine *On Credit Unions*, enterprises, institutions, and organizations may not use term ‘credit union’ in their names and may not be registered under the name that includes this term, unless they were established in accordance with the procedure set forth in this Law.

It means that credit institutions of other jurisdictions will not be able to provide financial services as credit unions in Ukraine.

B. Legal framework

3. Which authorities are responsible on banks and financial conglomerates in Ukraine?

Pursuant to Article 4 of the Law *On Banks and Banking* the NBU exercises its regulatory and supervisory activities based on the provisions of the Constitution of Ukraine, this Law, the Law of Ukraine No. 679-XIV *On the National Bank of Ukraine*² dated 20 May 1999 (hereinafter – the Law *On the National Bank*), other law of Ukraine and its own regulations.

State regulation of banking activity is performed by the NBU in the following forms (Article 66 of the Law *On Banks and Banking*):

I. Administrative regulation:

- 1) registering banks and licensing their activity
- 2) setting requirements to and limits on the bank(s)’ operations
- 3) applying administrative or financial sanctions
- 4) supervising banks
- 5) giving recommendations as to the banks’ activities.

II. Indicative regulation:

- 1) setting the mandatory economic ratios
- 2) determining reserve requirements to banks
- 3) setting the requirements to defining (calculating) by banks their own inherent risks
- 4) defining the interest rate policy

² https://bank.gov.ua/admin_uploads/law/Law_NBU_eng.pdf?v=4

- 5) refinancing of banks
- 6) correspondent relations
- 7) management of gold and foreign exchange reserves, including the currency interventions
- 8) operations with securities in the open market
- 9) import and export of capital.

According to Article 67 of the Law *On Banks and Banking*, supervisory activities of the NBU shall cover all banks, their standalone units, affiliates and congenerous parties of the banks, key participants in the ownership structure of the bank, banking groups, participants therein in the territory of Ukraine and abroad, establishments of foreign banks in Ukraine, as well as other legal entities and individuals in their compliance with the requirements of this Law.

Pursuant to the Law *On the National Bank*, the NBU performs functions of banking regulation and supervision of banks' activity on an individual and consolidated basis within the scope and in a manner stipulated by the Ukrainian legislation.

Article 1 of the Law of Ukraine No. 2664-III *On Financial Services and State Regulation of the Financial Services Markets*³ dated 12 July 2001 (hereinafter – the Law *On Financial Services*) defines the term 'financial group' that covers both banking group and nonbank financial group.

As per Article 16-1 of the Law *On Financial Services*:

- The NBU performs consolidated supervision over banking groups according to this and other laws of Ukraine, as well as over nonbank financial groups other than financial groups where the main activity is performed by financial institutions under the supervision of the National Securities and Stock Market Commission.

- The National Securities and Stock Market Commission (hereinafter – the NSSMC) performs consolidated supervision over nonbank financial groups where the main activity is performed by financial institutions under the supervision of the NSSMC.

Please see more details in answers to question 13.

Conditions of admission

4. What are the essential requirements for the authorisation to take up the business of credit institutions (legal form, level of own funds, minimum number of shareholders, conditions concerning the management body and internal governance, others?)

Regarding Banks

³ <https://zakon.rada.gov.ua/laws/show/2664-14?lang=en#Text>

Article 6 of the Law *On Banks and Banking*, sets requirements to legal and organizational forms of a bank, saying that a bank shall be created in the form of a joint stock company or a cooperative bank.

The legal status, establishment procedures, activities, reorganization and liquidation of banks are determined by the Law *On Banks and Banking* and the Law of Ukraine No. 4452-VI *On Households Deposit Guarantee Scheme*⁴ dated 23 February 2012 (hereinafter – the Law *On Households Deposit Guarantee Scheme*).

Laws and regulations on joint stock companies apply to the banks taking into account the provisions hereof.

In the event of contradiction between the Law *On Banks and Banking* and other laws (including codes) the Law *On Banks and Banking* shall prevail. Pursuant to Article 14 of the Law *On Banks and Banking*, parties to the civil law relations may be participants in a bank. The Ukrainian state, represented by the Cabinet of Ministers of Ukraine (hereinafter – the CMU) or a body authorized by the CMU, may be a participant in a bank.

Founders of a bank and owners of qualifying holdings in a bank shall have an irreproachable business reputation and a satisfactory financial/property standing.

Requirements to the business reputation and satisfactory financial/property standing of the founders, qualifying shareholders, and shareholders that are going to acquire or increase a qualifying holding in a bank are established by the NBU.

Participants in a bank shall not be legal entities, where the bank owns a qualifying holding, nor public associations, political parties, religious and charitable organizations.

Collective investment vehicles may be the founders of a bank or qualifying shareholders in a bank only if such vehicles are a corporate investment fund over 75 percent ownership of which and over 75 percent ownership (shares) of an asset managing company of which is directly and/or indirectly held by one entity or a group of associates.

Pursuant to Article 19 of the Law *On Banks and Banking*, a legal entity intending to engage in banking shall, within one year from the state registration date, submit to the NBU, in accordance with the procedure prescribed in the Law *On Banks and Banking* and in the NBU regulations, documents necessary to obtain the banking license.

The legal entity intending to engage in banking, in order to obtain the banking license, shall submit to the NBU together with the banking license application the following documents:

- 1) copies of the report registered by the NSSMC on the results of private stock placement and certificate of registration of issue of shares - for the bank established as a joint stock company
- 2) information on the number of members of the bank's supervisory board and the bank's board
- 3) the data and documents specified by the NBU to confirm the following:
availability of at least three persons appointed members of the bank's board, including the board chairperson

⁴ https://www.fg.gov.ua/storage/files/dgf-law-june-2021-eng-webpage_1645110913.pdf

compliance of the bank's managers, the head of the internal audit function, the head of the risk management function, i.e. the chief risk officer, the head of the compliance function, i.e. the chief compliance officer, with qualification requirements

compliance of the bank's supervisory board and the bank's board with the requirements for collective suitability set by the NBU

availability of the banking equipment, computers, information systems and other information resources needed to achieve the bank's goals, premises compliant with the NBU requirements, organizational structure and relevant professionals needed to ensure rendering the banking and other financial services, as well as ensuring the conduct of internal control and risk management

4) copies of the bank charter that govern rendering of banking and other financial services, determine the procedure of internal controls and risk management

5) the bank's strategy and a business plan for three years compiled according to the NBU requirements

6) a copy of the payment document confirming payment of the fee for receipt of the banking license in an amount determined by the NBU.

To obtain the banking license, the legal entity intending to engage in banking shall submit at the same time to the NBU all the documents and information stipulated by the Law *On Banks and Banking*.

The NBU shall have the right to request, and the founder(s) of the legal entity intending to carry out banking activities, the owners of the qualifying holding in it, and other persons that had or have legal relationship with the entity to which the request relates shall be required to provide additional information, documents, and explanations necessary to clarify/verify the documents/information provided in accordance with the requirements of the Law *On Banks and Banking*, and/or to confirm compliance with the requirements established by the Ukrainian laws.

The legal entity intending to engage in banking shall be obliged to inform the NBU, in line with the procedure set forth by it, on any significant changes in the information and/or documents submitted by it to the NBU with the aim of obtaining the banking license.

The legal entity intending to engage in banking shall be obliged to ensure access for people with disability and reduced mobility to banking and other financial services, including access to premises where banks' clients are served.

The decision to grant or to deny the banking license shall be taken by the NBU within three months from the day it has received the full package of the documents as specified herein.

The NBU, within two business days from the day of taking the decision on the issue of the banking license, shall:

make a relevant entry in the State Register of Banks

provide the bank with an extract from the State Register of Banks, which contains information about the issue of the banking license.

The legal entity acquires the status of a bank and the right to engage itself in banking after receipt of the banking license.

The NBU shall post information on the issue of banking licenses on its official website in the manner prescribed by it.

The managers of the bank, the chief risk officer, the chief compliance officer, the head of the internal audit function, and the persons with the qualifying holding therein shall meet, during all the time they retain their status in the bank or have the qualifying holding therein, the requirements stipulated by the Law *On Banks and Banking*, other laws of Ukraine, and the NBU regulations.

Article 31 of the Law *On Banks and Banking* sets that the minimum size of the authorized capital at the moment of state registration of the legal entity intending to engage in banking and the minimum size of the authorized capital of the bank shall not be less than UAH 200 million.

The NBU shall have the right to establish for some banks and legal entities intending to engage in banking, depending on their specialization, a differentiated minimum size of the authorized capital, and this size shall not be less than the amount specified in this Article.

Article 34 of the Law *On Banks and Banking* defines the requirements for acquiring the qualifying holding in a bank and bank's ownership structure.

An entity intending to acquire a qualifying holding in a bank or to increase it so that this entity could, directly and/or indirectly, alone or jointly with other entities, hold 10, 25, 50, 75 or more percent of the bank's authorized capital or voting shares in the bank's authorized capital and/or could influence the bank's management or activities in a significant manner, regardless of whether this entity is the formal owner of the bank, shall be required to notify both the bank in question and the NBU of its intentions and concurrently submit to the NBU the complete package of documents defined by the Law *On Banks and Banking* and the NBU regulations to obtain approval of the acquisition or increase of a qualifying holding in the bank.

An acquisition or increase in a qualifying holding in a bank without the NBU's approval shall be inadmissible, except for cases specified in the NBU regulations when a post factum approval of the acquisition or increase is allowed.

In the cases specified by the NBU, an entity shall address the NBU requesting the ex post facto approval of acquisition or increase in a qualifying holding in a bank within the terms and in accordance with the procedure set by the NBU. Before adopting a decision, the NBU may temporarily prohibit such an entity to use its voting rights in respect of the relevant shares in the bank under Article 73 of the Law *On Banks and Banking*.

If the bank mentioned in parts one and three of Article 34 of the Law *On Banks and Banking* holds a license as a capital market professional, the NBU shall inform the NSSMC about the mentioned entities intending to acquire or increase a qualifying holding in said bank or address the NBU requesting an approval of the acquired or increased qualifying holding in the bank after its actual acquisition or increase.

An entity intending to transfer its qualifying holding in a bank to any other entity or to decrease the holding so that its share in the bank's authorized capital or its voting right would be lower than the levels envisaged in part one of this Article, or to transfer control over the bank to another entity shall be required to notify thereof both the bank in question and the NBU according to the procedure set by the NBU.

The NBU has the right to prohibit an owner of a qualifying holding in a bank for a term of up to six months to alienate the bank shares in their possession and/or the shares in the authorized capital

(portfolio of shares) of a legal entity through which said entity owns the qualifying holding in the bank, if a corrective measure has been applied to the bank in the form of declaring it a problem bank or as limitation, suspension or termination of certain types of bank operations, including transactions involving the bank's related parties.

The ownership structure of the bank shall be in line with the NBU transparency requirements. The bank shall be obliged to annually submit to the NBU the information about its ownership structure, as well as inform the NBU of all changes in the ownership structure of the bank under the procedure and within the timeframe established by the NBU. Owners of a qualifying holding in the bank and key participants in the ownership structure of the bank shall be obliged within 10 business days from the date of the relevant changes to provide the bank with the information and documents necessary to obtain information about the bank's ownership structure.

The bank shall be obliged to notify the NBU about the facts of acquisition or increase of a qualifying holding in this bank, as well as about the decrease of a qualifying holding of an entity in this bank to the extent that the participation of such entity in this bank will be below the levels specified in part one of this Article, within three business days from the day it became known to the bank.

The bank shall be obliged to disclose information about its ownership structure and all changes to it in the scope and under the procedure determined by the NBU.

Owner of a qualifying holding in the bank shall be obliged to inform the NBU of all changes in the information that it provides under the Law *On Banks and Banking* in the scope and under the procedure established by the NBU.

The NBU shall have the right to establish whether there is a significant or decisive influence on the management or activities of a legal entity, including a bank, to recognize an entity as an owner of a qualifying holding in the bank under the procedure established by the NBU. Signs of the presence of significant or decisive influence on the management or activity of a legal entity, including a bank, are determined by the NBU regulations.

The NBU, in the event of noncompliance of the business reputation and/or financial/property status of the owner of a qualifying holding in the bank with the Law *On Banks and Banking* or the NBU regulations, and/or if the NBU has reasons to believe that ownership by said entity of a qualifying holding in the bank may create significant threats to the proper management of the bank, interests of its depositors and other lenders of the bank and/or adversely affect its financial position, has the right to temporarily prohibit such owner of qualifying holding to use their voting rights and/or require the alienation of the respective shares of the bank. The NBU shall post the respective decision on its official website no later than the next business day from the day it is adopted.

Acquiring qualifying holding in a bank should not be carried out at the expense of unverified sources, nor at the expense of funds or property, the use of which for the contribution to the authorized capital is prohibited by law. According to Article 34 of the Law *On Banks and Banking*, the general meeting of shareholders is the highest management body of the bank.

The bank's board shall be the executive body that performs the day-to-day management of the bank.

A bank shall establish a supervisory board to control the executive body, protect the rights of depositors, other creditors, and the bank's shareholders. The supervisory board shall not take part in the day-to-day management of the bank.

The members of the supervisory board and the bank's board shall be responsible for the bank's activity within their competence.

The bank's supervisory board and the bank's board shall possess the collective suitability that corresponds to the bank's size, complexity, volumes, types, and nature of its operations, its organizational structure and risk profile, and takes into account the specifics of a systemically important bank (in case the bank has such a status) and/or the activity of the banking group of which the bank is a part.

The NBU, in line with the procedure established by it, shall determine whether the supervisory board and the bank's board possess the collective suitability and assess how they ensure the effective management and control over the bank's operation, taking into account the bank's size, complexity, volumes, types, and nature of its operations, its organizational structure and risk profile, and the specifics of a systemically important bank (in case the bank has such a status) and/or the activity of the banking group of which the bank is a part. The NBU shall determine criteria for assessing the collective suitability of the supervisory board and the bank's board and ensuring their effective management and control over the bank's activities.

The NBU shall have the right to provide the general meeting of the participants in the bank and/or the supervisory board with written recommendations to increase the efficiency of the bank's management and control over its activities if, based on the assessment carried out by the NBU, the latter has reasons to believe that said bodies, within their mandate, fail to provide effective management and control over the bank's activities.

The general meeting of the participants in the bank and/or the supervisory board shall be obliged, within two month from the day of receipt of the NBU's written recommendations to increase the efficiency of the bank's management and control over its activities by the supervisory board and the bank's board, to inform the NBU on the measures that have been taken or will be taken to implement said recommendations.

The NBU shall have the right to demand to change the composition of the bank's supervisory board and/or the bank's board in case it has determined that the collective suitability of the bank's supervisory board or the bank's board does not meet the criteria established by the NBU or in the event that the general meeting of the participants in the bank and/or the bank's supervisory board failed to take measures to improve operation of the bank's supervisory board or the bank's board with the aim of ensuring by them of the effective management and control over the bank's activities.

A bank, at the NBU's request, shall be obliged to take measures to change the composition of the bank's supervisory board and/or the bank's board.

Articles 38-40 and 42 of the Law *On Banks and Banking* describes mandate, authority and requirements to the general meeting of shareholders, supervisory and management boards of a bank.

The general meeting of the participants in the bank shall have the exclusive authority to take decisions on the matters that, pursuant to law, fall within the exclusive authority of the general meeting of shareholders of a joint stock company. In addition, the bank's charter may include other issues in the competence of the general meeting of participants in the bank, except for those that

belong to the exclusive competence of the bank's supervisory board in accordance with law or bank's charter.

If the composition of the bank's supervisory board fails to meet the minimum required by Ukrainian laws, the bank's board shall have the right to make a decision on presenting any issue belonging, in accordance with the law or charter, to the exclusive competence of the bank's supervisory board for the consideration of the general meeting of the bank's shareholders. The general meeting of the bank's shareholders shall have the right to consider such an issue and make a decision.

The NBU has the right to request the convocation of the extraordinary general meeting of bank's shareholders and escalation of an issue to the superior body of a state-owned bank.

Any decision of the general meeting of participants in the bank/decision of a sole participant in the bank shall be made void if it has been taken as follows:

1) with making use of the voting rights by persons to whom the NBU has temporary denied the right to vote at the general meeting of the participants in the bank and/or required to alienate shares (stocks) of the bank

2) with making use of the voting rights with respect to the shares acquired as the result of a transaction being void.

Bank's supervisory board may include independent members (hereinafter – independent directors), bank's participants and their representatives. Bank's supervisory board members are elected through cumulative voting except when the bank has one shareholder.

The number of the supervisory board members shall be specified by the bank's charter, however cannot be less than five persons.

Members of the bank's supervisory board may not be the members of the bank's management board, as well as hold other positions in the bank on the terms of employment agreements, or provide services to the bank based on civil law contracts.

A member of the bank's supervisory board may not be a manager, official, and/or member of the bank's board or other management body of another bank registered in Ukraine, except in cases provided for in Ukrainian laws.

The independent directors shall account for at least one-third of the composition of banks' supervisory board, with their number being not less than three persons.

The independent directors shall comply with the requirements set by law for the independency of members of the supervisory board of a joint stock company. The NBU shall have the right to set additional requirements to the independent directors of banks. The bank shall be obliged to ensure compliance of independent directors with the requirements of the *Law On Banks and Banking* and other Ukrainian laws and NBU regulations and ensure replacement of said independent directors in case of incompliance.

The following functions shall be within exclusive authority of the bank's supervisory board:

1) approval of the bank's strategy, business plan, business recovery plans, emergency funding, and business continuity, and control over their implementation

2) ensuring organization of effective corporate governance in line with the principles (code) of corporate governance approved by the general meeting of participants in the bank

3) approval and control of the bank's budget execution, including financing of risk management, compliance, and internal audit units

4) approval and control of implementation of the bank's strategy and problem assets management plan

5) ensuring functioning and control of effectiveness of the comprehensive and adequate internal control system of the bank, including risk management and internal audit

6) approval and control of compliance with the strategies and policies on risk management, Risk Appetite Statement, list of limits on the bank's risks

7) approval and control of compliance with the code of conduct (ethics), policy for preventing, identifying, and managing conflicts of interest in the bank

8) implementation and control of functioning of a mechanism for the confidential reporting of unacceptable behavior in a bank and for response to such notifications

9) definition of sources of capitalization and other types of financing of the bank

10) definition of the bank's credit policy

11) approval of the organizational structure of the bank, including risk management, compliance, and internal audit units

12) approval of the internal regulations on the bank's board, supervisory board committees, risk management units, compliance units, internal audit units, and other units directly subordinated to the bank's supervisory board, which, in particular, should include the procedure for submitting reports to the bank's supervisory board

13) appointment and termination of powers of the chairman and members of the bank's board, appointment and dismissal of the chief risk officer, chief compliance officer, and head of the internal audit function

14) control over activities of the bank's board, risk management unit, compliance unit, and internal audit unit, and making recommendations on their improvement

15) carrying out annual assessment of the bank's board activities in general and that of activities of every board's member in particular, as well as of risk management units, compliance units, and internal audit units; assessment of compliance of the bank's board members, chief risk officer, chief compliance officer, and head of the internal audit function with qualification requirements; assessment of the collective suitability of the bank's board to the bank's size, complexity, scope, types, and nature of the bank's transactions, organizational structure and risk profile of the bank including specifics of the bank's activities being systemically important (if applicable) and/or activities of the banking group of which the bank is a part; taking steps to improve performance mechanisms of the bank's board and risk management, compliance, and internal audit units based on the results of such assessment

16) definition of working procedures and plans of the internal audit and control over its activity

17) designation of an audit company to perform external audit, including to perform annual audit of the financial statements, approval of the terms and conditions of the agreement entered into with such audit company, setting the amount of payment for services

18) analysis of the bank's external audit report and preparation of recommendations to the general meeting of participants in the bank to make a decision on the external auditor's report

19) control over elimination of deficiencies identified by the NBU and other public authorities performing within their competence the bank's activity, bank's internal audit and the audit company, basing on the external audit results

20) adopting the decisions on establishment, reorganization and liquidation of legal entities, establishment of the bank's branches and representative offices on the territory of other countries, approving their charters and regulations, and making decisions on the bank's participation in legal entities in the amount of 10 percent and more of the authorized capital

21) approval of terms and conditions of labor agreements (contracts) entered into with the members of bank's board, the head and employees of internal audit, chief risk officer, and chief compliance officer; setting the amount of their compensation

22) control over timely disclosure (publication) by the bank of accurate information about its activities in accordance with the Ukrainian laws, including NBU regulations

23) approval of and control over the procedure for conducting transactions with the bank's related parties which, in particular, shall prescribe requirements to detection of and control over transactions with the bank's related parties

24) determination of a remuneration policy of the bank to meet the requirements set by the NBU and control over its implementation

25) carrying out annual assessment of the bank's supervisory board activities in general and that of activities of every supervisory board's member in particular, as well as of the supervisory board's committees; assessment of the collective suitability of the bank's supervisory board to the bank's size, complexity, scope, types, and nature of the bank's transactions, organizational structure and risk profile of the bank including specifics of the bank's activities being systemically important (if applicable) and/or activities of the banking group of which the bank is a part; taking steps to improve performance mechanisms of the bank's supervisory board based on the results of such assessment

26) exercise of other powers attributed to the competence of a supervisory board pursuant to the Law of Ukraine *On Joint Stock Companies* or the bank's charter.

The chairperson and the members of the bank's supervisory board, when performing their functional duties, shall have the right to familiarize themselves with the documents and information on activities of the bank, including all the bank's units irrespective of the country of their location, and the bank's affiliates; the right to access to the banking transactions automation system, and the right to receive information from the bank's managers and employees on the issues related to performance of their functional duties.

The supervisory board of the systemically important bank shall establish the following permanent committees:

the audit committee

the risk management committee

committee on remuneration.

Heads of the audit committee, risk management committee, and committee on remuneration of a systemically important bank shall be independent directors.

The supervisory board of a systemically important bank shall have the right to establish other committees.

The supervisory board of the bank not recognized as systemically important shall have the right to establish permanent or provisional committees. At least one independent director shall be a member of the audit committee and committee on remuneration (if any). An independent director shall be appointed as the head of the risk management committee (if it was established).

The chairperson of the supervisory board may not be appointed as a head of the audit committee and risk management committee.

The supervisory board shall, in the order prescribed by it, take steps to prevent and manage conflicts of interest in a bank.

The supervisory board shall be obliged to ensure the efficient relations with the NBU.

The NBU has a right to require termination of powers of members of the supervisory board if they perform their functions improperly.

The NBU has the right to request the convocation of the extraordinary meeting of the supervisory board.

The bank shall be obliged to annually, not later than on 30 April and at the request of the NBU, provide the NBU, within its authority to perform the banking supervision, with information about the issues discussed at the meeting of the supervisory board, including the issues related to implementing the bank's strategy, business plan, business model, strategy and operational plan to manage troubled assets, and about decisions made on them, as well as a list of the members of the supervisory board that were present at the meeting (meetings) of the supervisory board.

The bank's charter may include other issues within the competence of the supervisory board.

The bank's board shall be headed by a chairperson who manages the board's activity and has the right to represent the bank without a power of attorney.

Deputies of the bank's board chairperson shall be members of the board due to their official capacity.

The chairperson of the bank's board shall bear personal responsibility for the bank's activity.

The chairperson of the bank's board shall have the right to participate in meetings of the supervisory board with the right to a consultative vote. The chairperson of the bank's board shall not be allowed to chair any structural units of the bank.

The bank's board shall resolve other issues related to the management of the daily operations of the bank, except issues within the exclusive competence of the general meeting of the shareholders and the supervisory board.

The bank's board shall be obliged to establish the following permanent committees:

- 1) credit committee
- 2) assets and liabilities management committee.

The bank's board shall have the right to establish other committees.

The same person may not simultaneously perform the functions of the chairperson of the credit committee and chief risk officer or chief compliance officer.

The bank's board shall be obliged to inform the bank's supervisory board on any violations of laws and the bank's internal regulations (if such violations fall within the competence of the bank's supervisory board, as prescribed by law) that were found in the bank's activities, on the level of risks arising when performing the bank's activities, and late or improper fulfillment by the bank's related parties of their obligations to the bank.

Top managers of the bank shall be the chairperson, his/her deputies, and members of the bank's supervisory board, the chairperson, his/her deputies, and members of the bank's board, and chief accountant.

The bank managers should meet qualification requirements. Qualification requirements are requirements for business reputation and professional suitability; the managers of a state-owned banks are also subject to the requirements set forth in Article 7 of the Law *On Banks and Banking*, and the bank's independent director is also subject to the requirements for independence.

Bank managers shall have irreproachable business reputation.

Business reputation is deemed irreproachable, if such person has no attributes of compromised business reputation. The attributes of compromised business reputation are set out in Section II of the Regulation *On Bank Licensing*, approved by NBU Board Resolution No. 149 dated 22 December 2018 (hereinafter – *Resolution No. 149*). Attributes of irreproachable business reputation are the same for the management and qualifying holders.

In particular, Section II Chapter 6 of *Resolution No. 149* stipulates the attributes of compromised business reputation of an individual along the following lines:

- compliance with laws and public order
- discharge of financial liabilities
- professional conduct
- position held or ownership of a qualifying holding in banks or other credit institutions.

The attributes of compromised business reputation of a legal entity are set out in Section II Chapter 7 of *Resolution No. 149* along the following lines:

- compliance with laws and public order
- discharge of financial liabilities
- business activity-related attributes
- qualifying holding in banks or other credit institutions

In particular, the NBU has the right to take into account:

- information about violation of the requirements of banking, financial, currency, and tax laws, as well as laws on financial monitoring, securities, joint stock companies, and stock market
- failure to discharge financial liabilities, noncompliance of the entity's/individual's activities with the standards of business practices and/or professional ethics.

Professional suitability of a bank manager shall be determined as a set of knowledge, professional and managerial experience of the person necessary for the proper performance of the official duties of the bank manager, in view of the business plan and strategy of the bank, as well as the functional load and responsibilities of the particular manager of the bank.

Bank managers shall have a higher education.

Chairperson of the bank's board shall have at least five years of experience in banking and/or financial sector, including at least 3 years in a managerial position.

Members of the bank's board shall have a total of at least three years of experience in banking and/or financial sector.

At least a half of the members of the bank's supervisory board, including its chairperson, should have at least three years of experience in the banking and/or financial sector.

A chief accountant of a bank and their deputies shall have professional experience in the banking and/or financial sector, a total of five years of professional experience for the chief accountant and two years for their deputies.

Competence requirements for the bank managers shall be set by the NBU.

The NBU, according to the procedure set by it, approves the bank's top managers for positions (candidates for top manager positions). The NBU shall deny approval of a top manager (a candidate for a top manager position) if such top manager does not meet competence requirements or he/she does not prove to the NBU their compliance with competence requirements.

A chairperson of the bank's board, a chief accountant, and a chairperson and members of the supervisory board shall take office after the NBU's approval. If, after the deadline for consideration of the full set of documents, the NBU has not informed the bank about the decision on approval of a candidate for the position of the chairperson or a member of the supervisory board, the candidate shall be deemed approved.

Bank shall submit documents for approval of bank's managers to the NBU within one month since the day of their appointment (election) to the positions. Bank has the right to ask for the NBU's approval of the candidates for the managerial positions before their appointment (election) to the positions.

Bank managers shall be in compliance with the competence requirements during their tenure in the respective positions. The bank shall be responsible for checking if its managers are in compliance with the competence requirements. The bank shall also ensure ongoing control of such compliance.

The NBU shall have the right to demand termination of powers of any bank manager in case of his/her failure to comply with the competence requirements and/or bank manager's failure to properly fulfil his/her duties that led to the bank being in a breach of applicable legal requirements uncovered in the process of banking supervision and in accordance with the procedure defined by the Law *On Banks and Banking*. The bank shall be obliged, at the NBU's request, to take measures to terminate the powers of such top manager of the bank and to select/appoint another person to the respective position, as prescribed by Ukrainian laws.

The bank's manager, in respect to which the NBU has demanded the termination of powers due to its refusal to approve the manager, shall be obliged to refrain from taking actions and making

decisions and terminate his duties from the moment the bank receives the relevant written request from the NBU.

The chairperson, members of the bank's board and the bank's chief accountant shall be prohibited to hold positions in other legal entities (except for the bank's controller, legal entities that have a common controller with the bank, and banking unions and associations).

The NBU has the right to receive from state authorities, local government bodies and other legal entities without charge the information necessary to determine the compliance of bank managers (candidates for relevant positions) with qualification requirements. The authorities and the persons that have received such inquiry from the NBU, shall provide the respective information within 10 business day upon the receipt of the NBU's request.

Bank managers shall be obliged to act in the interests of the bank, to comply with the law, charter and other documents of the bank.

Top managers shall be responsible to the bank for damages caused to the bank by their actions (or inaction) in accordance with the law. If several persons bear responsibility under this article, their responsibility to the bank shall be joint.

The bank's managers shall take steps to prevent and manage conflicts of interest in the bank. The bank's managers shall be obliged to refrain from taking actions and/or making decisions if this may lead to arising of the conflict of interest and/or impede the proper performance of the duties by such managers in the interests of the bank.

The bank's managers shall be obliged to refuse to participate in decision making if the conflict of interest does not allow them to fully perform their duties in the interests of the bank, its depositors, and participants in it. In such cases, the bank's manager being a member of the collegial body shall not have the voting right when such body makes a decision, and they shall not be taken into account when determining the quorum of the relevant collegial body.

The Resolution No. 149 contains additional requirements to the persons intending to obtain banking license, owners of qualifying holdings, and bank's managers.

Regarding Credit Unions

In line with the Law *On Credit Unions*, a credit union is incorporated based on a decision of a foundation meeting. A credit union should consist of at least 50 subscribers (members) who are eligible to be the members of a credit union in line with the Law *On Credit Unions* and share one of the following attributes: place of work or study, are members of the same trade union, association of trade unions, other nongovernmental or religious organizations, or reside in one village, town, city, district, or oblast. A founding meeting shall approve the articles of association of a credit union, elect its management bodies, authorize persons for the state registration, and deal with other issues related to the incorporation of a credit union.

The NBU shall grant a status of a financial institution to a credit union in accordance with the Law *On Credit Unions* and the NBU regulations. The status of a financial institution shall be granted by means of relevant entry in the State Register of Financial Institutions (hereinafter – the State Register). The activity of credit unions on attracting their members' contributions (deposits) to deposit accounts as well as other types of their activities shall be licensed in accordance with the law.

Members of the credit union may be Ukrainian citizens, foreigners, and stateless persons that are permanent residents in Ukraine and share at least one attribute set out in Article 6 part one of the Law *On Credit Unions* and enjoy full legal capacity.

Credit unions cannot be formed by persons declared by court as having limited legal capacity or restricted legal capacity, as serving a sentence in prison, as well as persons with a criminal record of convictions with intent to profit, if the conviction is outstanding or was not expunged.

A member may be admitted or expelled from the credit union based on their written application following the decision of the credit union's supervisory board, except the membership is terminated due to the member's death or expulsion from membership in case of violation of the charter following the decision of the general meeting.

The management bodies of a credit union are the general meeting of the credit union members, the supervisory board, the audit commission, the credit committee, and the management board. Other management bodies may be established by the decision of the general meeting of the credit union members. The credit union management bodies are established and operate as prescribed by the Law *On Credit Unions*, other regulations and the charter of the credit union.

A credit union must establish within its corporate structure:

- a supervisory board in capacity of no less than 5 members
- management board
- audit commission
- AML officer
- credit committee.

Meanwhile, a credit union must notify the NBU on the appointment of members of supervisory board and management board, chief accountant, head of internal audit and AML officer, chief compliance officer, chief risk officer. People holding these positions must be fit and proper in terms of their qualification and reputation.

Credit union's capital consists of the equity, reserve, and additional capital, as well as the remaining retained earnings of the credit union, and shall not be less than 10% of the amount of their total liabilities. The equity capital of the credit union shall be formed from mandatory and additional share contributions by the credit union members.

Capital reserve is created to cover potential losses of a credit union that cannot be covered from the earnings of the current year, to ensure credit union's solvency and protect the savings of its members. Capital reserve of a credit union is created from entrance fees paid by the credit union's members and a part of credit union's income until it reaches the amount of at least 15% of the credit union's total risk-weighted assets. Credit union's charter may provide for other sources of capital reserves.

Additional capital of a credit union is formed by members' contributions, donations from individuals and legal entities, property and fixed assets received for free.

In order to cover loan loss allowances expected losses from loan defaults, a credit union creates loan loss allowances using part of the credit union's income. The procedure for creating and using the loan loss allowances is defined by the NBU.

A credit union creates other allowances and funds according to the NBU's regulations, charter and decisions of the credit union's general meeting.

Conditions of operation

5. What are the provisions concerning prudential ratios? Indicate the average level of these ratios for the industry:

Regarding banks

I. Instruction *On the Procedure for the Regulation of Bank Activities in Ukraine* approved by the NBU Board Resolution No. 368 dated 28 August 2001 sets the following minimum economic ratios for banks:

a) Solvency ratio

1.1 regulatory capital adequacy ratio – no less than 10%

1.2 common equity adequacy ratio – no less than 7%

The actual ratios for the banking system are provided in the table below.

Ratio	01.01. 2017	01.01. 2018	01.01. 2019	01.01. 2020	01.01. 2021	01.01. 2022	01.02. 2022
Regulatory capital adequacy ratio (no less than 10%)	12.69	16.10	16.18	19.66	21.98	18.01	17.99
Common equity adequacy ratio (no less than 7%)*				13.50	15.67	11.99	11.65

* introduced in 2019.

b) Liquidity ratio

2.1. LCR ratio – 100%

2.2. NSFR ratio – 90% (as of 1 April 2023 – 100%)

Average (median) value of liquidity indicators are provided in the table below.

	LCR (all currencies)	LCR (foreign currencies)	NSFR
--	----------------------	--------------------------	------

2019	266	286	n/a
2020	281	285	n/a
2021	254	221	157
January-22	265	240	147

c) Leverage ratio

The introduction of leverage is prescribed by amendments to the Law *On Banks and Banking* adopted in June 2021. This metric is calculated as the ratio of Tier 1 capital to a bank's total assets and off-balance-sheet liabilities. The NBU supported by the World Bank experts is currently working to develop the respective regulation and calibrate this indicator for Ukraine. At the moment, the leverage indicator does not act as a regulatory ratio.

In addition, the NBU has established requirements on complying with the credit risk ratios and investment ratios by banks.

Credit risk ratios:

- ratio of the single counterparty maximum credit exposure (N7) is established to limit the credit risk arising from nonfulfillment of liabilities by some counterparties. Value of N7 ratio should not exceed 25% of the bank's regulatory capital
- value of large credit exposures (N8) is established to limit the credit risk concentration by a single counterparty or a group of related counterparties. Value of N8 ratio should not exceed the eightfold amount of the bank's regulatory capital
- maximum credit risk ratio under transactions with the bank's related parties (N9 ratio) is established to limit the risk of transactions with the bank's related parties, reduce the negative impact of transactions with the bank's related parties on the bank's operation. Value of N9 ratio should not exceed 25% of the bank's regulatory capital. If the value is exceeded, the ratio is reduced by the exceeding amount of the bank's regulatory capital.

Investment ratios:

- ratio of investment in securities of each institution (N11) is established to limit the risks related to direct and/or indirect holding of the bank in the authorized capital of a separate legal entity. Value of N11 ratio should not exceed 15% of the bank's regulatory capital.
- ratio of the total amount of investment (N12) is established to limit the risks related to direct and/or indirect holding of the bank in the authorized capital of legal entities. Value of N12 ratio should not exceed 60% of the bank's regulatory capital.

II. Regulation *On Procedure for Regulation of Banking Groups Activities* approved by the NBU Board Resolution No. 254 dated 20 June 2012 (as amended) sets out the following minimum requirements to the banking groups:

1) Requirements for the regulatory capital adequacy:

The adequacy of the regulatory capital is determined by comparing the amount of the regulatory capital of the banking group/subgroup of the banking group with the required amount of the regulatory capital of the banking group/subgroup of the banking group calculated in line with the requirement hereof.

Requirements for the regulatory capital adequacy of the banking group/subgroup of the banking group are met if the amount of the regulatory capital of the banking group/subgroup of the banking group equals to or exceeds the required amount of the regulatory capital of the banking group/subgroup of the banking group.

The required amount of the regulatory capital for a credit and investment subgroup is 10% of the risk-weighted assets of the subgroup, taking into account the minimum amount of operational risk and currency risk.

The required amount of the regulatory capital of insurance subgroup shall be determined as the total amount of required regulatory capital of insurance companies being members of this subgroup that is determined as the larger amount of the following:

- UAH 30 million for an insurer who provides or plans to provide nonlife insurance
- UAH 45 million for an insurer who provides or plans to provide life insurance
- a required solvency margin calculated under the laws of Ukraine

The required amount of capital is determined as a sum of regulatory capital of credit and investment subgroup and insurance subgroup.

2) Liquidity ratios (for credit and investment subgroup):

- current liquidity ratio (H5k) shall be determined as ratio of assets with maturity up to 31 days (inclusive) to liabilities with maturity up to 31 days (inclusive). The H5k ratio should not be less than 40%.

- short-term liquidity ratio (H6k) shall be determined as a ratio of assets with maturity up to one year to liabilities with maturity up to one year. The H6k ratio shall be no less than 60%.

3) Credit risk ratios:

- the maximum credit exposure per counterparty (H7k) is defined as the ratio of total amount of all claims of the banking group/subgroup members to a counterparty (a group of related counterparties) and the amount of all financial liabilities provided by such members to this counterparty (a group of related counterparties), to the regulatory capital of the banking group/subgroup of the banking group. The H7k ratio should not exceed 25%.

- large credit exposures (H8k) is defined as the ratio of total amount of large credit exposure of the banking group/subgroup members to all counterparties (a group of related counterparties), all related parties to the regulatory capital of banking group/subgroup, respectively. The H8k ratio shall not exceed 800% (8-fold amount of regulatory capital).

- the maximum credit exposure per related party transactions banking group (H9k) is defined as the ratio of total amount of all claims of the banking group/subgroup members to all related counterparties and the amount of all financial liabilities provided by such members to this banking group for all related counterparties, to the regulatory capital of the banking group/subgroup of the banking group. The standard H9k ratio should not exceed 25%.

4) Participation (investment) ratios

- participation (investment) ratio in the capital of a legal entity other than a financial institution (H11k) is defined as a ratio of the amount of funds invested by the banking group members into the authorized capital of the legal entity other than a financial institution, by acquiring shares, stakes, parts, investment certificates, to the regulatory capital of a banking group. The H11k ratio should not exceed 15%.

- the total amount of participation (investment) (H12k) ratio is defined as a ratio of the amount of funds invested by the banking group participants into the authorized capital of the legal entities other than financial institutions, by acquiring shares, stakes, parts, investment certificates, to the regulatory capital of a banking group. The H12k ratio should not exceed 60%.

Economic ratios in the Ukrainian banking system as of 1 February 2022:

N2 regulatory capital adequacy ratio – 17.99%

N3 common equity adequacy ratio – 11.65%

LCR (all currencies) = 264.6%

LCR (foreign currencies) = 240.1%

NSFR = 147.3 %

Regarding credit unions

Credit unions are subject to a bespoke prudential regime under national law.

Regulation *On Mandatory Financial Ratios and Requirements that Limit Risks Under Transactions with Financial Assets of Credit Unions* approved by the Ordinance of the National Commission for State Regulation of Financial Services Markets No. 1840 dated 19 September 2019 and registered by the Ministry of Justice of Ukraine as No. 1186/34157 on 27 November 2021 establishes the following financial ratios that shall be mandatory for all credit unions.

Leverage ratios:

- 1) financial stability ratio (K1) that is defined as the ratio of the credit union capital to the total amount of all liabilities should be no less than 10%

2) capital adequacy ratio (K2) that is defined as the ratio of part of the capital, which consists of equity, reserve, and additional capital, retained earnings (uncovered loss), except for additional share contributions, target contributions, and all other returning contributions by credit union members, which are included into the capital and which the credit union is liable to pay back under the law (except for mandatory member contributions) (hereinafter – common equity), to the carrying value of all assets of credit union, should not be less than 7%

3) capital buffer (B). Credit union builds a capital buffer (B) on top of the capital adequacy ratio (K2).

Capital buffer ratio (B) is met if the amount of the common equity of the credit union reduced by 7% of the carrying value of all assets of the credit union is not less than the estimated capital buffer for such credit union.

If the estimated capital buffer (B) is less than 3% of the carrying value of all assets of the credit union, the estimated capital buffer for such credit union is accepted as 3% of the carrying value of all assets of the credit union.

The estimated capital buffer is calculated as a sum of the following components:

capital buffer (B1) that is calculated from the carrying value of all assets as follows:

Until 30 December 2020 (inclusive)	0.1% for each separate administrative district (oblast, Autonomous Republic of Crimea, city of Kyiv, and city of Sevastopol), where the standalone units of the credit union are located, except for an administrative district, where a credit union is located as a legal entity.
as of 31 December 2020	0.2% respectively
as of 31 December 2021	0.3% respectively
as of 31 December 2022	0.4% respectively
as of 31 December 2023	0.5% respectively

capital buffer (B2) is created to form additional common equity in those credit unions that have a systemic importance for the credit cooperation market of Ukraine given the size of attracted contributions (deposits) to deposit accounts. Credit union calculates the capital buffer (B2) starting from the first reporting date on which the remaining contributions (deposits) to deposit accounts exceeded UAH 30 million. Capital buffer is calculated as follows:

Until 30 December 2020 (inclusive)	is zero if the remaining contributions (deposits) to deposit accounts amount up to UAH 30 million 0.5% if the remaining contributions (deposits) to deposit accounts amounts to UAH 30 million and more
---------------------------------------	--

as of 31 December 2020	is zero if the remaining contributions (deposits) to deposit accounts amount up to UAH 30 million 1% the remaining contributions (deposits) to deposit accounts are from UAH 30 million (inclusive) to UAH 50 million 1.5% if the remaining contributions (deposits) to deposit accounts amount to UAH 50 million and more
------------------------	--

Liquidity margin ratio:

Liquidity margin ratio (K5) is met by the credit union if the difference between the eligible assets of the credit union and the estimated liquidity margin is positive (more than 0).

The eligible assets of a credit union for the calculation of liquidity margin ratio (K5) are:

- cash at cash desks of the credit union
- funds on current and deposit accounts in banking institutions with the maturity of up to one year that can be used as of any date and funds that are subject to repayment for the following 12 months or without limitations on the maturity
- contributions (deposits) to deposit accounts to the joint credit union with the maturity of up to one year that can be used as of any date and funds that are subject to repayment for the following 12 months or without limitations on the maturity
- additional share contributions to the joint credit union
- government securities.

The eligible assets of the credit union do not include restricted assets and assets placed in the banking institutions that are not licensed to take retail deposits.

The estimated liquidity margin of a credit union is calculated from the remaining additional contributions by credit union members and remaining liabilities under contributions (deposits) by credit union members to deposit accounts and equals to 5%.

It should be noted that in the framework of the Association Agreement between Ukraine, on the one hand, and the European Union, the European Atomic Energy Community, and their member states, on the other hand, ratified through Law of Ukraine No. 1678-VII dated 16 September 2014 (hereinafter – the EU-Ukraine Association Agreement), measures are being taken to exclude credit unions of Ukraine from the scope of Directive 2013/36/EU and Regulation (EU) No. 575/2013. The EU has tentatively agreed to exclude the credit unions of Ukraine from the scope of Directive 2013/36/EU and Regulation (EU) No. 575/2013, taking into account that the requirements of the EU acquis do not apply to a number of similar institutions in the EU member states (Poland, Ireland, Lithuania and others).

Draft Law No. 5125 *On Credit Unions* dated 22 February 2021 is pending a repeat second reading in the Verkhovna Rada of Ukraine. Its adoption will ensure the implementation of a brand new model of regulation of Ukrainian credit unions in accordance with the best world practices of regulation and supervision of such market. The NBU intends to review the current legal regulation of the nonbank financial services market, including in the area of the state regulation of credit unions, and approve new regulations in line with the EU acquis. The operation of credit unions is and will be restricted in Ukraine. Credit unions will have no access to the EU single market, and their operation will pose no additional threats to the EU.

6. Is there a deposit guarantee scheme? Describe its main elements.

The deposits guarantee scheme in Ukraine was introduced by Presidential Decree on 10 September 1998 through establishing of a non-profit legal entity of public law, namely, the Deposit Guarantee Fund (hereinafter – DGF), which assumed an obligation to guarantee to every depositor of any commercial bank that pays contributions to DGF to reimburse the deposit in the amount of such deposit, including interest, if it becomes unavailable. As a result of the reform introduced by the Law *On Households Deposit Guarantee Scheme*, the DGF acquired the mandate of loss minimizer (according to the IADI classification of mandates of deposit insurers).

Today, the DGF is a rightful participant in the financial stability system of Ukraine, and the purpose of the Law *On Households Deposit Guarantee Scheme* is to protect the rights and legitimate interests of bank depositors, strengthen confidence in the banking system of Ukraine, encourage fundraising in the banking system of Ukraine, ensure effective procedure for removing the insolvent banks from the market and liquidating the banks.

The above purpose of the Law *On Households Deposit Guarantee Scheme* is implemented through the adoption of appropriate decisions by the governing bodies of the DGF, namely, the Administrative Board and Executive Directorate of the DGF. The composition, formation procedure, powers, and operational procedure of the DGF Administrative Board are provided for in Articles 8–10 of the Law. The DGF Administrative Board consists of 5 members: 1 representative of the CMU, 2 representatives of the NBU, 1 representative of the relevant committee of the Verkhovna Rada of Ukraine and the DGF Managing Director, whose terms of office at the Administrative Board are 4 years (except for the DGF Managing Director). The term of office of the Administrative Board member may be extended, but only for one consecutive term. The main responsibilities of the DGF Administrative Board include approving the strategic and financial development instruments of both the DGF and the guarantee system as a whole.

The composition, formation procedure and powers of the DGF Executive Directorate are provided for in Articles 11–12 of the Law *On Households Deposit Guarantee Scheme*. The DGF Executive Directorate controls the current activities of the DGF and consists of seven members. Managing Director and Deputy Managing Directors of the DGF are the members of the Executive Directorate *ex officio*. To avoid any conflicts of interest and ensure independent decision-making by the DGF Executive Directorate, the Law *On Households Deposit Guarantee Scheme* prohibits the Executive Directorate members to hold positions of the executive officer, participant or related party of the bank or any other legal entity with which the DGF, or any bank being removed from the market by the DGF, has any contractual relations.

Pursuant to Article 4 of the Law *On Households Deposit Guarantee Scheme*, the DGF performs the following key functions to ensure proper functioning of the guarantee system:

- 1) maintaining a register of the DGF participants;
- 2) accumulating funds from the sources determined by Article 19 of the Law *On Households Deposit Guarantee Scheme* and controls the completeness and timeliness of contributions paid by each DGF participant;
- 3) arranging the compensation for deposits within the deadlines set forth by the Law *On Households Deposit Guarantee Scheme*;
- 4) exercising control over the activities of the DGF participants;

5) carrying out activities to inform the general public about the functioning of the household deposits guarantee scheme, protection of the rights and legally protected interests of depositors, increasing the level of financial literacy of the population in accordance with the Law *On Households Deposit Guarantee Scheme*.

1. Maintaining a register of the DGF participants

Participation in the DGF is regulated by Articles 17–18 of the Law *On Households Deposit Guarantee Scheme* and the Regulation *On Procedure for Maintaining a Register of Participants of the Deposit Guarantee Fund*, approved by Decision of the DGF Executive Directorate No. 7 dated 12 July 2012 (hereinafter – the Regulation No. 7).

The said legislation requires a mandatory participation of banks in the DGF. Bank acquires the status of the DGF participant on the date of obtaining a banking license. Bridge bank (established to remove an insolvent bank from the market) is also the DGF participant, but is exempt from the initial and regular contributions to the DGF. After the bridge bank is sold to investor, the bank pays regular contributions to the DGF on the usual terms.

The list of DGF participants is published on the DGF's official website. The DGF is obliged to additionally publish on its official website the information about changes in the list of the DGF participants not later than 14 days after the relevant changes have been introduced into the register of the DGF participants, as well as the list of the DGF participants.

Upon entering information about the bank in the register of DGF participants, the participant obtains the unique registration number and certificate. For this purpose, the DGF must receive:

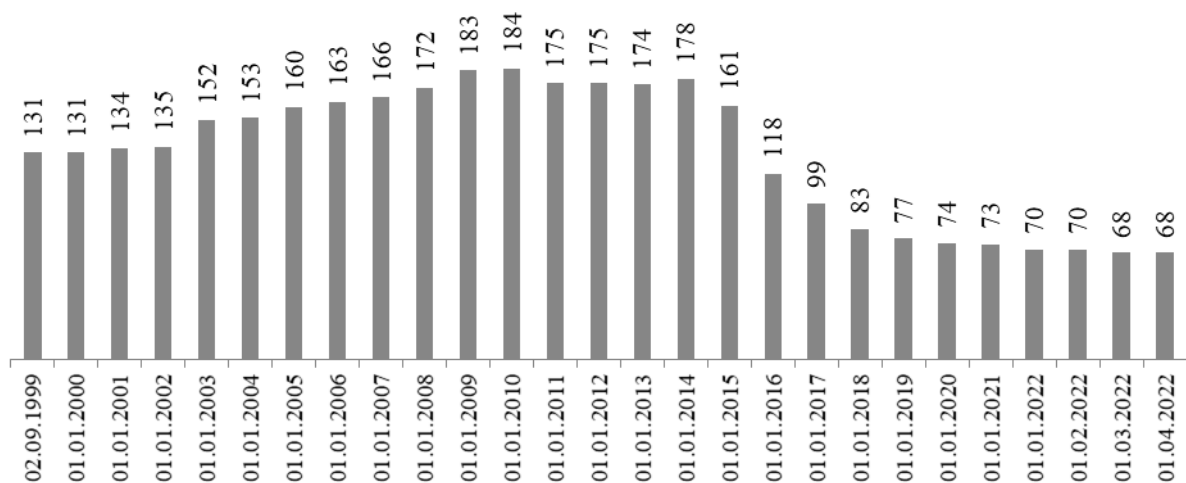
1) notification of the NBU on the issuance of a banking license

2) information from the bank as provided for by the Regulation No. 7 within 10 days from the date of receipt of the banking license.

The DGF excludes a bank from its participants if a decision to revoke its banking license and liquidate a bank is taken. Pursuant to the Law *On Households Deposit Guarantee Scheme* the branches of foreign banks cannot participate in the DGF.

As a result of 2014–2016 financial and banking crisis in Ukraine, the number of DGF participants has significantly decreased (see Table 1). Today, the number of DGF participants is 69 in total (together with Oschadbank JSC).

Table 1. Dynamics of participation in DGF in 1999–2022



2. Accumulating funds from sources determined by Article 19 of the Law *On Households Deposit Guarantee Scheme* and controlling completeness and timeliness of contributions paid by each DGF participant

The funding sources of the DGF include:

- 1) initial contributions of the DGF participants
- 2) regular contributions of the DGF participants
- 3) special contribution to the DGF
- 4) income received from investments of the DGF funds in Ukrainian government securities and bonds of international financial institutions placed in the territory of Ukraine
- 5) funds raised by the DGF by means of placement of bonds and/or issue of promissory notes of the DGF
- 6) interest income accrued by the NBU on the outstanding balance of the DGF's account with the NBU
- 7) loans raised from the NBU in case of urgent liquidity support for timely fulfilment of the DGF's task of ensuring the functioning of the household deposit guarantee scheme in order to avoid any threats to the stability of the banking and/or financial system of Ukraine and protecting the interests of bank depositors
- 8) forfeit (fines, penalties) levied in accordance with the Law *On Households Deposit Guarantee Scheme*
- 9) funds contributed by the NBU in the amount of UAH 20 million at the time of the DGF establishment
- 10) funds from the state budget of Ukraine, including domestic government bonds
- 11) charitable contributions, grants, technical assistance in pecuniary or non-pecuniary form, including those provided by foreign entities
- 12) loans raised from non-banking financial institutions and foreign creditors

13) funds obtained from implementation of measures envisaged by the resolution plan, in particular, from the sale of an insolvent bank or a bridge bank, or from liquidation of a bank

14) income received from the DGF's financial support (loan) to the assuming or bridge bank

15) income received from the DGF's credit granted to the bridge bank

16) guarantee payments transferred by the participants in an open tender in cases determined by the Law *On Households Deposit Guarantee Scheme*

17) funds obtained from managing assets of the DGF (including alienation, lease, etc.)

18) funds received from the banks being provisionally administrated or liquidated by the DGF, within the approved cost estimates, to reimburse the costs incurred by the DGF to remove them from the market.

The DGF may be funded from other sources not prohibited by the legislation of Ukraine.

The funding sources of the DGF are shown in Table 2.

Table 2. Formation of the DGF's financial resources in 2021 and 2020

UAH mln

Funding source of the DGF	2021	2020
Regular contributions	4,539.30	4,065.60
Income from investments in government securities	1,300.92	1,107.90
Interest income on the outstanding balance of the DGF's account with the NBU	69.91	192.50
Repayment of domestic government bonds	9,491.83	6,028.80
Funds obtained from implementation of measures envisaged by the resolution plan	1,030.63	2,303.10
Other income, including:	34.55	61.80
<i>guarantee payments</i>	30.00	55.10
<i>refund of court fees paid</i>	3.01	5.70
<i>finances and penalties levied</i>	0.31	0.40
<i>other income</i>	1.17	0.60

The DGF has the authority to control the completeness and timeliness of contributions provided for in Articles 21–23 of the Law *On Households Deposit Guarantee Scheme* by each DGF participant. The procedure for calculation, accrual, and payment of contributions to the DGF is regulated by the Law *On Households Deposit Guarantee Scheme* and the DGF's Regulation No. 1 dated 2 July 2012 (hereinafter – the Regulation No. 1).

The initial contribution is 1% of the authorised capital of the bank and is paid within 30 days from the date of issuance of the banking license. The participating bank established by reorganisation is exempt from the initial contribution to the DGF if the initial contribution was paid by the

reorganised banks, and acquires all rights and obligations associated with participation in the DGF. The bridge bank is also exempt from the initial contribution to the DGF.

The basic annual rate of the regular contribution is 0.5% of the accrual basis in national currency and 0.8% of the accrual basis in foreign currency, and is accrued as of the last working day of each quarter. The Executive Directorate has the right to increase the basic annual rate of the regular contribution to the DGF for certain period in case of potential or actual reduction in the DGF's target below 2.5% of the guaranteed funds of depositors of participating banks within the reimbursement amount.

The accrual basis is the arithmetic average of daily balances on the interest-bearing deposit accounts within the calculation period in question.

By issuing a separate regulation the DGF has the right to establish procedure for calculating the amount of regular contributions to the DGF in the form of differentiated fees. The differentiated fee amount is calculated by weighing the annual base fee rate against the risk level. The differentiated fee amount must be not less than the annual base rate. The methodology for assessing the level of bank risks for the calculation of differentiated fees is laid down in the DGF's Regulation No. 1 and agreed with the NBU.

The Executive Directorate has the right to introduce a special contribution to the DGF in case of potential or actual reduction in the DGF's target below 2.5% of the guaranteed funds of depositors of participating banks within the reimbursement amount, or in order to repay the loans raised.

The DGF constantly monitors the DGF's target indicator, which should not be less than 2.5% of the funds of depositors of participating banks within the reimbursement amount guaranteed by the DGF.

To determine the amount of the special-purpose fund, taking into account the possibility of future crises, the DGF calculates the value of the DGF's target indicator and time required to achieve it (including the results of stress testing of the household deposit guarantee scheme). The DGF conducts regular stress testing of the household deposit guarantee scheme at least once every three years. The results of stress testing of the household deposit guarantee scheme may be used by the DGF to review the annual basic rate of the regular contribution to the DGF greater than that established by Article 22(1) and/or to set a special contribution to the DGF or review the value of target indicator. The stress testing methodology is determined by the DGF.

If the value of target indicator calculated by the DGF exceeds the minimum value, the DGF refers the issue of the establishment of target indicator and deadline for its achievement for consideration by the Financial Stability Board, following which the Financial Stability Board provides its recommendations and the DGF Administrative Board decides on the issue in accordance with paragraph 19 of Article 9(1) of the *Law On Households Deposit Guarantee Scheme*, but not more than once a year.

The required amount of the special-purpose fund is reached by accumulating the adjusted capital. The DGF's adjusted capital should cover the projected amount of risks in the banking system in the event of future crises (except in cases of existence of certain signs of the unstable financial position of the banking system and circumstances threatening stability of the banking and/or financial system of Ukraine, confirmed by the relevant decision of the Financial Stability Council).

In the event of failure to reach the target value, the DGF has the right to take measures to accumulate capital for the period in question by:

increasing the basic rates of regular contributions paid by the DGF participants

introducing a special contribution to the DGF.

In the event of an urgent need to support the liquidity in order to timely fulfil the DGF's task on ensuring the functioning of the household deposit guarantee scheme, the DGF has the right to:

raise loans from the NBU

raise loans and/or receive contributions on a non-repayable basis.

Proceeding from calculations made in accordance with the Methodology for Assessing the Financial Stability of the DGF, the indicator of DGF's financial stability as of 31 December 2021 was 4.68%, which is considered sufficient under the *Law On Households Deposit Guarantee Scheme*.

The estimated financial stability of the DGF for the next twelve months, assessed in accordance with the Methodology for Assessing the Financial Stability of the DGF, shows the predicted possibility of reducing the DGF's financial stability indicator to 2.9%, which is higher than regulatory required values. If such risks occur, the DGF will have enough its own means for overcoming the consequences without any additional attraction of government funds.

The DGF's financial stability indicators as of 31 December 2021 and its estimated stability over the next 12 months are presented in Table 3.

Table 3. Calculation of estimated financial stability

	Information as of	DGF's financial stability (FS=OF/GDR), %	Deposits reimbursements guaranteed by the DGF (GDR), UAH mln	DGF's OWN FUNDS (OF), UAH mln	Surplus/deficit of funds (+/-), UAH mln
	01.01.2022	4.68	388,675	18,209.2	8,492.3
estimated values	01.02.2022	5.0	371,000	18,459.5	9,184.5
	01.03.2022	5.0	371,200	18,472.7	9,192.7
	01.04.2022	4.9	371,800	18,176.5	8,881.5
	01.05.2022	4.4	374,400	16,580.0	7,220.0
	01.06.2022	4.0	374,600	15,085.1	5,720.1
	01.07.2022	4.0	375,400	14,976.9	5,591.9
	01.08.2022	3.7	373,200	13,685.0	4,355.0
	01.09.2022	3.3	375,900	12,484.5	3,087.0

	01.10.2022	3.4	375,900	12,793.5	3,396.0
	01.11.2022	3.1	375,300	11,812.2	2,429.7
	01.12.2022	2.9	375,000	10,828.8	1,453.8
	01.01.2023	3.1	382,200	11,880.8	2,325.8

The estimation also includes the DGF's potential risks regarding the costs of DGF to pay compensation to depositors of those banks that may become insolvent in 2022 in the amount of about UAH 11,459.8 million.

3. Arranging compensation for deposits within the deadlines set forth by the Law *On Households Deposit Guarantee Scheme*

The DGF guarantees compensation for funds obtained by banks in cash or cashless forms, in the national or foreign currencies. A deposit is the funds in cash or non-cash form in the currency of Ukraine or foreign currency that are attracted by the bank from the depositor (or received in favour of the depositor) under the terms and conditions of the bank account or bank deposit agreement (except for funds attracted by issuing the savings certificates), including interest on such funds. Funds raised by the bank by issuing the bank savings certificates or certificates of deposit are not a deposit.

Since 24 February 2022, the number of depositors increased by 121 thousand people and as of 1 April 2022 the number of depositors totalled 50.8 million people.

The DGF compensates funds to every depositor (being natural person and individual entrepreneur) of every bank in the amount of the deposit, including the interests accrued as at the end of the day preceding the start date of the procedure of removal of the bank from the market by the DGF, not exceeding, however, the maximum amount of compensation.

For the period of martial law and within 3 months upon its end, the amount of compensation is 100% of the deposit itself and interest accrued thereon. Three months after the end of martial law, the maximum amount of compensation will be UAH 600,000.

The DGF pays no compensation for funds:

- 1) put into trust management of the bank
- 2) of less than UAH 10
- 4) deposited with the bank by a person which is a related party of the bank or has been such party within one year prior to the date of the decision of the NBU to recognise such bank as insolvent (in the event the NBU decides to revoke the banking license and liquidate the bank on the grounds set forth in Article 77(2) of the Law *On Banks and Banking* – within one year prior to the date of the said decision)
- 5) deposited with the bank by a person which has provided the bank with professional services as an auditor or an appraiser, where less than one year has passed since the date of the termination of the provision of such services till the date of the decision of the NBU to recognise such bank as insolvent (in the event the NBU decides to revoke the banking license and liquidate the bank on the grounds set forth in Article 77(2) of the Law *On Banks and Banking* – within one year prior to the date of the said decision)

6) held by the bank's substantial shareholder

7) on which the depositors receive interest from the bank under individual contracts concluded on non-market terms and conditions within the meaning of Article 52 of the Law *On Banks and Banking*, or enjoy other financial benefits from the bank

8) deposited in the bank, if the said deposit is used by the depositor to secure the fulfilment of other liabilities to that bank, in full amount of the deposit until the date of fulfilment of such liabilities

9) deposited in branches of any foreign banks

10) deposited in banking metals

11) placed on accounts arrested by a court decision

12) deposit, the satisfaction of claims in respect of which is suspended in accordance with the AML/CFT Law.

One bank is temporarily exempted from general regulation due to its special status and its acquisition of status of the DGF participant in April 2022. For instance, from the date when Oschadbank JSC became a member of the DGF:

- if a deposit accepted by Oschadbank JSC before it became the DGF participant exceeds the deposit compensation limit, a portion of the deposit that exceeds such limit is guaranteed by the State

- if a deposit accepted by Oschadbank JSC before it became the DGF participant is not eligible for compensation by the DGF on legal grounds, such deposit is guaranteed by the State.

The State guarantees referred to in this paragraph apply within six months of the date when Oschadbank JSC becomes the DGF participant.

The accrual of interest on deposits terminates on the day the DGF launches the procedure of bank removal from the market. And if the NBU resolves to revoke the banking license and liquidate the bank on the grounds specified in Article 77(2) of the Law *On Banks and Banking*, the accrual of interest on deposits terminates on the date of issue of such resolution.

The deposits accepted by the bank in foreign currencies are compensated in hryvnia according to the official exchange rate of the NBU as at the end of the day preceding the start date of the procedure of bank removal from the market.

The DGF guarantees compensation for funds deposited by the depositor with the bank that has been further reorganised through transformation, on the same terms and conditions that applied before such reorganisation.

Deposits transferred to the bridge bank are guaranteed by the DGF on the same terms and conditions that applied before the transfer.

Pursuant to the Law and the Regulation *On Procedure for Compensation by the Deposit Guarantee Fund of Deposits* approved by Decision of the DGF Executive Directorate No. 14 dated 9 August 2012, the compensation is made through the DGF's automated payment system. The creation of an automated system for compensation payments and direct monitoring of the proper formation of the depositors database facilitated the payment of compensation within significantly shorter periods than those 20 working days provided for by the legislation. For instance, in 2021, the period for starting payments to the depositors of banks recognised as insolvent has been reduced to 15 working days on average. In pursuance of the requirements of the Law *On Households Deposit*

Guarantee Scheme, in 2021, the DGF paid the guaranteed amounts of compensation to depositors of 37 banks. During 2021, 11 agent banks connected to the DGF's automated payment system were involved in compensation payment to depositors. Agent banks were selected in accordance with the requirements of Regulation *On Procedure for Selection of the DGF's Agent Banks* approved by Decision of the Executive Directorate No. 6 dated 12 July 2012. The use of the automated payment system by 4.7 thousand branches of 11 agent banks results in the depositors' opportunity to receive compensation in any branch of any agent bank in the territory controlled by the Government of Ukraine. At present, there is no need to file individual applications to the DGF, except for the heirs of depositors, in order to update the personal data kept by the DGF or before paying funds to depositors of banks, the liquidation of which lasts more than 5 years.

The total guaranteed amount of compensation paid in 2021 at the expense of the DGF is UAH 848.2 million. Proceeding from the indicators of 2021, there is a quite even distribution of compensation among certain categories of deposits. The biggest share of payments is observed in categories of deposits from UAH 10,000 to UAH 100,000 (25%) and from UAH 100,000 to UAH 200,000 (33%).

As of 1 March 2022, the deposits of natural persons and individual entrepreneurs in the DGF participants amount to UAH 645,944,730,882.26; in Oschadbank JSC (separately) — UAH 118,007,988,424.46. Since 24 February 2022, the amount of possible compensation for deposits increased by UAH 46.2 billion or by 12.6% to UAH 413.3 billion, which is 58.7% of the total amount of deposits in the banking system.

Since 2012, the DGF paid UAH 95.7 billion to approximately 2 million depositors of 102 Ukrainian banks.

4. Exercising control over the activities of the DGF participants

As part of ensuring the functioning of the deposit guarantee scheme, protecting the depositors' rights and interests and exercising control over the activities of the DGF participants, the DGF monitors the fulfilment of the banks' obligations associated with their participation in the deposit guarantee scheme by conducting audits and remote checks of the DGF participants. In 2021, within the scope of the DGF's control functions with respect of the activities of its participants, the DGF audited its participants to evaluate the proper fulfilment of their obligations, assigned by the Law *On Households Deposit Guarantee Scheme* and regulations of the DGF, in accordance with the approved annual audit plan.

The DGF annually audits at least 40% of Ukrainian banks, with each bank being audited at least once every two years. Banks with high risk profile (as determined by a special set of criteria) are audited more often, namely, once a year.

The DGF is constantly improving its audit approaches and procedures. For instance, since 2020, most audits have been carried out remotely by obtaining remote secure access to the operating systems of the banks, which significantly increased the efficiency of audits both for the DGF and banks.

Due to the regular audits carried out by the DGF, the number of violations committed by the banks has decreased and the quality of banks' depositors database has significantly improved in recent years. For instance, in 2021, the DGF detected 54 violations of its regulations compared to 107 violations in 2019.

Figure 1 demonstrates the number of audits carried out in 2021.

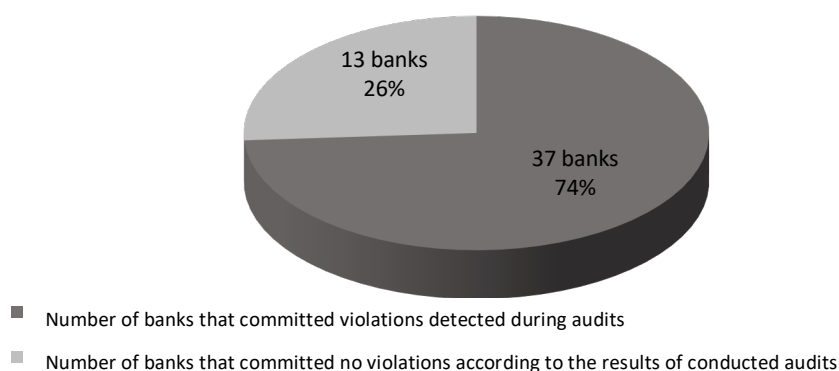


Figure 1. Number of audits carried out in 2021

The regular remote audits were carried out to check:

1. reliability of reports provided to the DGF
2. completeness and timeliness of the contributions and accrued penalties payment to the DGF
3. completeness and reliability of the maintained database of depositors
4. compliance with the requirements for informing depositors about bank's participation in the DGF.

Based on the results of 50 audits of banks conducted by the DGF in 2021, the DGF discovered 54 violations of the requirements of the Law *On Households Deposit Guarantee Scheme* and DGF's regulations.

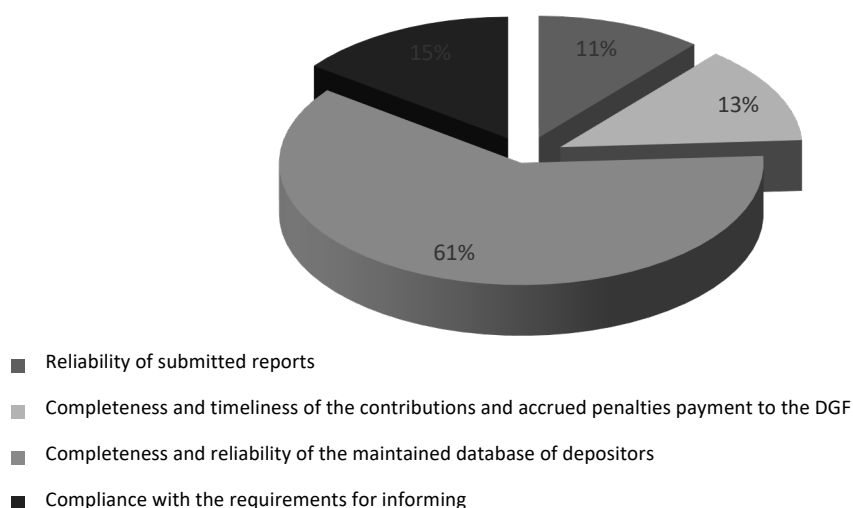


Figure 2. Share of violations associated with specific audited fields in the total number of discovered violations

5. Activities to inform the general public about the functioning of the household deposits guarantee scheme, protection of the rights and legally protected interests of depositors, increasing the

level of financial literacy of the population in accordance with the Law *On Households Deposit Guarantee Scheme*

Improving the financial literacy of the population is one of the DGF's priority tasks. The DGF implements this strategic goal using various methods, in particular, by promoting dissemination of knowledge about deposit guarantee scheme among the educational environment in all regions of Ukraine.

To disseminate complete and reliable knowledge about the functioning of the deposit guarantee scheme in Ukraine and the activities of the DGF, the DGF experts developed a specialised training course "Deposit Guarantee Scheme: Fundamentals and Practice", designed to improve the skills of trainers conducting financial trainings and lecturers organising financial literacy clubs in schools, etc.

To attract a wide audience, a number of projects have been launched, in particular, the online channels of the National Financial Literacy Project on Facebook and profiles of the DGF's educational project "Fincult" on Facebook and Instagram, as well as YouTube and Telegram.

The DGF actively participates in the international financial literacy initiatives.

In addition, the DGF became a title partner of the Nationwide Communication Campaign for Protection of Consumers of Financial Services "Know Your Rights", launched by the NBU with the support of the Verkhovna Rada Commissioner for Human Rights and international partners, namely, the International Finance Corporation (IFC) in partnership with the Swiss State Secretariat for Economic Affairs (SECO) and the UK Good Governance Fund in Ukraine, as well as the EU technical assistance project "Strengthening the Regulation and Supervision of the Non-Bank Financial Market" (EU-FINREG).

The DGF advisory body – the Financial Literacy Expert Council – has also been set up, composed of 10 representatives from academia, finance and public sectors.

In 2021, the work to develop core competencies frameworks on financial literacy for adults, children and youth was started. The aforementioned measures are included in the Strategy of Ukrainian Financial Sector Development until 2025 and the FinTech 2025 Development Strategy. The core competencies frameworks are being developed by the interagency working group, which, in addition to the DGF's representatives, includes representatives of the NBU, the NSSMC and the Ministry of Education and Science of Ukraine. Furthermore, within the framework of interagency Memorandum, the DGF's experts participate in the work on the draft Financial Literacy Development Strategy.

Pursuant to the DGF Strategic Development Directions, the Strategy of Ukrainian Financial Sector Development until 2025 and measures to bring Ukrainian legislation in line with European legislation, one of the priority activities of the DGF being actively developed is the strengthening of trust and protection of investors' rights. To this end, in 2021, the DGF has:

- introduced a permanent training system for the bank employees on the deposit guarantee scheme;
- prepared proposals for standardisation of publicly available parts of the accession agreements;
- introduced amendments to the Instruction on Procedure for Protection by the DGF of Depositors' Rights and Interests Protected by Law, approved by Decision of the DGF Executive

Directorate No. 825 dated 26 May 2016 (hereinafter – the Instruction) to improve the procedure for disclosure by the DGF participants of information about the household deposit guarantee scheme;

- ensured constant methodological and consulting support to the banks.

In the reporting year, the DGF remotely monitored the activities of 72 participating banks in H1 and H2 2021 for compliance with the requirements set forth in the Instruction. The most recent monitoring showed that the number of violations has significantly decreased from 97% of the total number of audited banks in 2016 to 35% in 2021. In 2021, no violations were detected in 45 banks (over 64% of the total number of banks) (Figure 3). In particular, there are no comments or observations as to the availability of a copy of certificate of the DGF participant, availability of information on the guaranteed amount or availability of the list of bank tariffs.

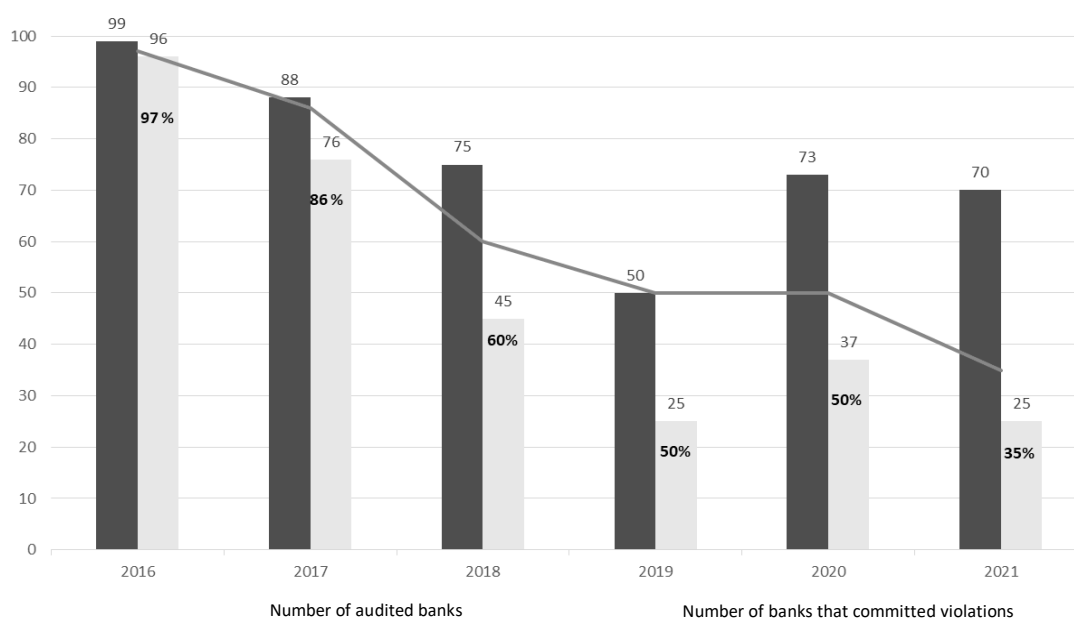


Figure 3. Level of compliance by the banks with the DGF's requirements for disclosure of information about the guarantee scheme

Constant monitoring by the DGF translated into a positive trend in the level of compliance with the requirements for disclosure of information about the guarantee scheme by the DGF participants in 2016–2021.

Previously, the DGF has frequently discovered the facts of introduction of risky products for depositors by the banks. At the same time, the banks did not provide full and transparent information to their clients on the content and price of such products, as well as the associated risks and legal consequences. In 2021, the DGF carried out appropriate work with the banks and provided its conclusions and proposals as to the banking products that did not take into account the terms and conditions of the deposit guarantee scheme and created a risk for depositors to lose their right to the guaranteed amount of compensation.

To prevent such situations in the future, the DGF monitors trends in the banking market that may pose risks to the interests of depositors, actively cooperates with the regulator, in particular, on DGF's participation in the nationwide outreach campaigns aimed at disseminating knowledge about financial services, consumer rights and guarantee scheme.

In the effort to instil a legal culture, promote legal ways to solve the depositors' problems, inform investors about their rights and responsibilities, as well as the rights and responsibilities of financial service providers, in 2021, the DGF launched a regular column "Legal Alphabet".

Regarding credit unions

At present, the NBU together with the DGF prepares legislative initiatives required for committing credit unions to participate in deposit guarantee schemes.

Respective international commitments of Ukraine as part of the European integration set out in Articles 133 and 135 and Appendices XVII-2 to XVII-5 of the EU-Ukraine Association Agreement. The draft law on establishing the deposit guarantee scheme for credit unions is drafted as part of implementing Directive 2014/49/EU.

The draft law was expected to be submitted for consideration of the Verkhovna Rada of Ukraine in 2022 after the Verkhovna Rada of Ukraine adopts the Law of Ukraine *On Credit Unions* (draft law No. 5125 dated 22 February 2021). However, due to hostilities in Ukraine, the adoption of the draft law on credit unions is postponed.

The guarantee scheme is expected to be based on the DGF and introduced after the Law *On Credit Unions* is adopted.

7. What are the activities which a credit institution is authorised to carry on?

Article 47 of the Law *On Banks and Banking* contains a list of bank's activities. A bank is entitled to render the banking and other financial services (except for services in insurance) and to engage in other activities stipulated by this Article in domestic and foreign currency.

A bank has the right to engage in banking upon obtaining the banking license by means of rendering the banking services. A bank conducts professional activity in the capital markets based on the license granted by the NSSMC.

Banking services include:

(1) taking deposits in currency and investment metals from an unlimited number of legal entities and individuals

(2) opening and maintaining current (correspondent) customer accounts, including those in investment metals, and escrow accounts

(3) allocating investment metals and funds received from depositors, including funds deposited into current accounts, on the bank's own terms and at the bank's own risk (are considered as the lending operations).

According to Article 49 of the Law *On Banks and Banking*, the lending operations mean as well :

- performance of operations in the capital markets on its own behalf
- granting guarantees, warranties and other commitments on behalf of third parties that require settlement in monetary form

- acquisition of the right to claim the fulfillment of liabilities in monetary form for the delivery of goods and rendering of services, taking on the risk of satisfying these claims and receipt of payments (factoring)
- leasing.

Banks may enter into consortium crediting agreements in order to provide joint financing. Within the framework of such an agreement, the participating banks shall determine the terms of extending a loan and appoint a bank responsible for implementation of the agreement. The member banks shall bear risks on the extended loan proportionally to their contributions to the consortium.

A bank shall have a unit responsible for lending and management of credit-related operations.

The banks shall be prohibited from granting loans directly or indirectly to acquire their own securities, shares of other banks and to extend subordinated debt to banks. The use of securities of their own issue as collateral may be possible only with the NBU permission.

The banks are prohibited from indirectly carrying out lending transactions with bank's related parties.

When granting loans, the banks shall adhere to the general principles of lending, including the evaluation of creditworthiness of borrowers and the availability of collateral, and adhere to the requirements concerning risk concentration, established by the NBU.

A bank has the right to extend unsecured loans on condition that the economic ratios are met. Granting of noninterest bearing credits is prohibited except in the cases specified by the law.

In the case of late payment of principal loan amount or interest, a bank shall have the right to issue an order on the enforced payment of debt, if provided for in the agreement.

A bank shall use information from the Credit Register for credit risk assessment.

Only banks are entitled to render banking services.

A bank is entitled to render the financial services to its customers (other than banks), including through entering into agent agreements with legal entities (commercial agents). The list of the financial services a bank is entitled to render to its customers (other than banks) through entering into agent agreements shall be compiled by the NBU. A bank shall inform the NBU of the agent agreements signed. The NBU shall maintain the register of banks' commercial agents and may establish requirements thereto. Banks may enter into agent agreements with the legal entities meeting the requirements established by the NBU.

A bank renders services of currency assets trading in cash and noncash forms to individuals and legal entities with the simultaneous crediting the currency assets to their accounts pursuant to the Law of Ukraine No. 2473-VIII *On Currency and Currency Operations*⁵ dated 21 June 2018 (hereinafter – the Law *On Currency*).

In addition to providing financial services any bank may also engage in activities related to:

- 1) investments

⁵ <https://zakon.rada.gov.ua/laws/show/2473-19?lang=en#Text>

2) issue of its own securities

3) custody of assets (including accounting and custody of securities and other valuables which have been confiscated (arrested) in favor of the state and/or such that have been declared ownerless), and leasing of an individual lockbox

4) cash collection and cash in transit services

5) consulting and information services with regard to the banking and other financial services.

6) services of the administrator on issue of bonds in line with the Law of Ukraine *On Capital Markets and Organized Commodity Markets* (hereinafter – the Law *On Capital Markets*).

A bank is entitled to engage in any deeds necessary for rendering the banking and other financial services and for the other bank's activities.

A bank is entitled to engage in a new business type or rendering a new type of the financial services (other than the banking ones) provided it complies with the requirements of the NBU regarding this type of business or service.

According to Article 10 of the Law of Ukraine No. 1591-IX *On Payment Services* dated 30 June 2021, which enters in effect on 1 August 2022 (hereinafter – the Law *On Payment Services*), banks are providers of payment services.

Banks are authorized to provide payment services according to their banking license without obtaining an additional license. Banks provide payment services in the way prescribed by the Law *On Payment Services* and the Law *On Banks and Banking*.

Banks have the right to provide payment services (except for payment services of e-money issue and e-money transactions) without inclusion in the Payment Infrastructure Register (hereinafter – the Register).

Banks are authorized to provide payment services of e-money issue and e-money transactions, including opening and servicing e-purses, only after being registered as electronic money issuer in the Register.

Regarding Credit Unions

In the Law *On Credit Unions* a credit union is defined as a not-for-profit institutions founded by individuals, trade unions and their associations on cooperative terms for the purpose of meeting the needs of the members in mutual lending and financial services provided using the joint money contributions of the members of credit unions.

An exhaustivel list of permitted activites that can be conducted by credit unions is set by law and includes:

accept entrance and membership contributions, as well as other contributions from its members

issue loans in cash and cashless form to its members setting the terms for their repayment, schedule of repayment and collateral

take deposits under contracts from its members both in cash and in cashless form

act as a guarantor of their members obligations to the third parties

deposit idle funds in banks licensed to take retail deposits, joint credit union, and purchase government securities named by the NBU as authorized investments, bonds of international financial institutions placed in the territory of Ukraine, and stakes of cooperative banks

obtain on contractual terms loans from banks, joint credit union, other institutions and organizations solely for granting loans to its members unless the NBU decides otherwise

issue loans to other credit unions unless the NBU decides otherwise

be a member of payment systems

on behalf of its members pay for goods, works and services within their credit limit

engage in charity work using the funds that were specifically allocated for this purpose.

Credit unions are prohibited to engage in any activities other than those specified in the Law on Credit Unions and listed above.

Credit unions activities on taking deposits from their members' and issuing loans including financial credit shall be licensed.

In case of adoption the Draft Law No. 5125 *On Credit Unions* dated 22 February 2021 in addition to credit unions will be able also to engage in activities related to:

- Guarantees
- Financial payment services
- Trading for own account in foreign exchange
- Intermediary services with regard to the financial services by a credit union or other financial service provider
- Consulting and information services with regard to the financial services
- Other activities related to the main activities of the credit union for the provision of financial services, subject to restrictions imposed by regulations.

Credit unions are prohibited from operating in the field of material production and trade.

8. Which accounting prudential and statistical information is the bank required to give to the supervisory authority in respect of its business? Please indicate periodicity of such information. Are there any sanctions for delays or failures to submit such information in time?

In accordance with Article 69 of the Law *On Banks and Banking*, any bank must submit to the NBU its financial statements and statistical reporting on its operation, transactions, liquidity, solvency, profitability, as well as the information about its affiliates with the aim to assess the bank's financial standing.

A responsible person of the banking group is obliged to submit to the NBU the consolidated and subconsolidated reporting, as well as statistical reporting.

The NBU sets for the banks and banking groups: list, format of reports or requirements to the formats, regularity and terms of reporting submission, procedure for submission and publication of financial statements (annual financial statements, annual consolidated financial statements, interim financial statements, consolidated interim financial statements), consolidated and subconsolidated financial statements.

In certain cases, the NBU shall be entitled to require the banks and banking groups to submit ad hoc and preliminary reporting.

Each owner of a substantial stake in a bank who is a legal entity is obliged to submit to the NBU an annual report on its activities within the period established by it. The report shall contain the following information:

1) types of activity carried out by the legal entity

2) information on the economic entities, in which this legal entity's participation exceeds 10 percent, in particular: the name and address of the legal entity, size of the stake (share) owned by this person, and types of activity

3) balance sheet and income statement of that entity as at the end of the last fiscal year audited by an external auditor (audit firm).

The NBU has the right to request the submission of other periodical reports, other documents or information from the bank's qualifying holding owners and key participants in the bank ownership structure, in order to supervise the security and stability of the bank's financial standing and to ensure the compliance with the provisions of this Law.

The general requirements for the preparation, authorization, and submission of statistical reporting to the NBU are provided for by the Rules of Statistical Reporting submitted to the NBU, approved by the NBU Board Resolution No. 120 dated 13 November 2018.

Data are submitted to the NBU at different intervals: daily, every tenth day, monthly, quarterly, semi-annually, annually, and upon request.

The data are used to perform regulatory and supervisory functions, including over currency markets, in accordance with Ukrainian law.

Based on the information provided, the regulator creates:

- monetary, financial, and banking statistics
- balance of payments, international investment position, and external debt statistics.

Prudential statistical reports submitted by banks to the NBU for economic ratios calculation purposes consist of the following files:

No.	File number	File name	Data frequency
1	42X	42X "Maximum counterparty exposure data"	daily
2	C5X	"Additional data for economic ratio calculation"	daily
3	79X	"Data on recognition of the subordinated debt in bank's capital"	daily
4	6KX	"Data for calculating the Liquidity Coverage Ratio (LCR)"	daily
5	A7X	Data on the maturity structure of assets and liabilities	every ten days

6	26X	Data on balances with other banks and deposits taken from other banks	every ten days
7	6NX	Data on calculating net stable funding ratio (NSFR)	every ten days
8	6FX	Data on counterparty/related party	monthly
9	6GX	Data on contractual exposures to counterparties/related parties	monthly
10	6HX	Data on counterparties/related parties exposure by currency and tranches	monthly
11	6IX	Data on exposures to counterparties/related parties	monthly
12	D9X	Data on largest (direct and indirect) participation in bank's counterparties	monthly
13	6DX	Data on compliance with economic ratios and open FX position limits	monthly
14	E8X	Data on risk concentration in bank's liability transactions	monthly
15	F8X	Data on the number of credit agreements and their outstanding amount	monthly
16	6EX	Data on current outflows and inflows	monthly
17	6BX	Data on measuring credit risk arising from the bank's exposures	monthly
18	F9X	Data on trust management transactions	monthly
19	data in JSON format	Credit Register	monthly
20	4BX	Data on compliance with requirements on regulatory capital adequacy and economic ratios by banking group and its subgroups	quarterly
21	6LX	Data on risk concentration of the banking group	quarterly
22	6MX	Data on intragroup transactions of the banking group	quarterly
23	48X	Data on twenty largest participants in a bank	quarterly
24	6CX	Data on business entities where the bank's qualifying shareholder's participation is over 10%	quarterly
25	95X	Data on the bank's affiliates	quarterly
26	3BX	Data on financial statements of borrowing enterprises	quarterly

27	3VX	Data on bank's borrowing enterprises	quarterly
28	7FX	Data on scenarios of changes in interest rates and interest rate risk in the banking book	quarterly
29	7GX	Data on interest rate risk in the banking book	quarterly
30	7HX	Data on nonperforming assets	quarterly
31	7IX	Data on restructured assets	quarterly
32	7JX	Data on foreclosed property	quarterly
33	7KX	Data on changes in nonperforming assets	quarterly
34	7CX	Data on minimum amount of operational risk	annually
35	7DX	Data on losses from operational risk events	annually
36	7EX	Data on losses from five major operational risk events	annually

For the duration of martial law, banks' submission of financial statements will comply with the *Rules for Submitting Statistical Reporting to the NBU during a Special Period* approved by NBU Board Resolution No. 140 dated 18 December 2018 prescribing a shorter list of financial reports.

At present, the NBU takes all measures on implementing EU approaches to prudential reporting according to COREP standard. These methodologies are already introduced for financial statements submitted for calculating LCR and NSFR ratios.

Prudential reposting in line with COREP standard for other ratios will be implemented after approval of respective requirements.

Main indicators were developed according to FINREP basic model. FINREP standard is in the process of implementation for disclosures.

Pursuant to Article 73 of the Law *On Banks and Banking*, the NBU shall have the right to impose corrective measures that are adequate to the violation committed.

Pursuant to Regulation *On Application of Enforcement Measures by the National Bank of Ukraine* approved by the NBU Board Resolution No. 346 dated 17 August 2012, the NBU may decide to restrict, suspend or terminate certain types of the bank's transactions, including limitation of transactions with the bank's related parties, remove from office a manager of the bank, particularly in the case of:

- noncompliance with the requirements of the NBU regulations, including as regard to drawing up and submitting reporting
- providing inaccurate information and financial statements required by NBU regulation, failure to submit or a delay in submission of financial statements
- failure to correct financial statements in the manner specified by the NBU.

9. Is there a specific regulation concerning the annual accounts and consolidated accounts of banks? Explain the main rules applying to the format of the balance sheet and to the publication of the annual accounts.

In line with Article 14 of the Law of Ukraine No. 996-XIV *On Accounting and Financial Reporting in Ukraine* dated 16 July 1999 (hereinafter – the Law *On Accounting*), public interest entities (save for big non issuers), public joint-stock companies, natural monopoly entities on the state-wide market, and business entities of mining industries, shall – before 30 April of the year following the reporting period – disclose annual financial statements and annual consolidated financial statements together with an auditor's opinion on its web-site (in full) and by other means as prescribed by law.

Pursuant to Article 12¹ part 5 of the Law *On Accounting*, public interest entities, including banks prepare and provide financial statements and consolidated financial statements to state authorities and other users upon request as prescribed by this Law based on financial statements taxonomy pursuant to international standards in the single electronic format established by central executive body assigned to develop and implement state accounting policy.

In accordance with Article 69 of the Law *On Banks and Banking*, any bank must submit to the NBU its financial statements and statistical reporting on its activity, operations, liquidity, solvency, profitability, as well as the information of its affiliates with the aim to assess the bank's financial standing.

The NBU sets for the banks and banking groups: list, format of reports or requirements to the formats, regularity and terms of reporting submission, procedure for submission and publication of financial statements (annual financial statements, annual consolidated financial statements, interim financial statements, consolidated interim financial statements), consolidated and subconsolidated financial statements.

The contents, regularity, and deadlines for submitting annual financial statements and consolidated financial statements for banks are prescribed by Instructions *On the Procedure of Preparing and Publishing Financial Reporting of Banks of Ukraine* approved by NBU Board Resolution No. 373 dated 24 October 2011.

The procedure for banks on preparing financial statements is set out by the NBU in line with the Law *on Accounting* and International Standards of Financial Reporting.

The bank shall, on its own initiative or upon request of the NBU, during one month since the date of publication and/or detection of inaccurate financial statement, refute the published inaccurate financial reporting, annual consolidated financial statements, interim financial statements, consolidated interim financial statements, in the same way as it was distributed.

The banking group responsible person is obliged to disclose the auditor's report and the annual consolidated reports of the banking group audited by an audit firm not later than on 1 June of the year following the reporting one, in the composition of the reporting and procedure determined by the NBU, through publishing them on its website and in any other manner as prescribed by the Ukrainian legislation.

10. How are capital requirements determined? Can banks use their own models for determining risk and regulatory capital?

Capital requirements are set out in the Instruction *On the Procedure for the Regulation of Banks Activities in Ukraine* approved by NBU Board Resolution No. 368 dated 28 August 2001 (hereinafter – Instruction No. 368), that prescribes minimum capital requirement to cover credit risk (unexpected loss), operational risk, and currency risk (is a component of market risk).

Requirements are set to adequacy of common equity tier 1 capital (core capital) and regulatory capital (core capital and additional tier 1).

Minimum common equity tier 1 accounts for 7%, regulatory capital – 10%.

Considering amendments to the Law *On Banks and Banking* adopted in 2021, the NBU at present takes measures (supported by the World Bank) on bringing the regulatory capital structure and capital adequacy requirements in line with CRR.

Estimation of credit risk (unexpected loss) is set out in Instruction No. 368 and includes a standardized approach including application of risk weight (RW) depending on the type of the exposure, counterparty of the transaction, and type of collateral. Risk weight is applied to the balance value of assets, net of eligible collateral provided by the defined eligible collateral provider (requirements to collateral are set out in Instruction No. 368).

Considering measures taken as defined in the EU-Ukraine Association Agreement, the NBU at present takes measures (supported by the World Bank) on bringing requirements to calculating credit risk in line with the standardized approach according CRR requirements.

Calculation of currency risk is prescribed in Instruction No. 368 and provides for estimating the open currency position with a break down by currencies and investment metals. At the same time, the Regulation *On the Procedure for Determining the Minimum Market Risk by Ukrainian Banks* approved by the NBU Board Resolution No. 162 dated 30 December 2021 prescribes the procedure for estimating minimum market risk under the standardized approach set out by Basel 2019 (for more details go to reply to question 11).

Calculation of operational risk is prescribed in the *On the Procedure for Determining the Minimum Market Risk by Ukrainian Banks* approved by NBU Board Resolution No. 156 dated 24 December 2019 and provides for application of the standardized approach set out by Basel III 2017 (for more details go to reply to question 11).

Banks are prohibited to use proprietary models for calculating minimum capital to cover credit, operational, and market risks.

11. Is there a regulation concerning the capital adequacy relating to risks other than credit risks?

Yes. Definition:

- operational risk in line with *On the Procedure for Determining the Minimum Operational Risk by Ukrainian Banks* approved by the NBU Board Resolution No. 156 dated 24 December 2019 (as amended). This regulation was drafted by the NBU supported by the World Bank based on Basel III 2017 (standardized approach)

- market risk in line with the Regulation *On the Procedure for Determining the Minimum Market Risk by Ukrainian Banks* approved by NBU Board Resolution No. 162 dated 30 December 2021(as amended). This regulation was drafted by the NBU supported by the World Bank based on

Basel III 2019 (simplified standardized approach) and prescribes a trial period. At present, for calculating capital adequacy ratios, market risk is calculated only for gross currency position (currency risk).

For reference:

Minimum operational risk of the bank is estimated with consideration of the bank's main operating income and expenses. Bank income and expenses are distributed into three components:

- the component of net interest income/costs and dividend
- the servicing component
- the financial component.

An average of the past three years is used for estimating each of the three components.

For estimating minimum operational risk the sum of three components is weighted by ratio of 0.15 and the derived value is the value of operational risk of the bank to be covered by capital.

Banks will estimate minimum operational risk once a year based on audit-approved annual financial statements.

The requirement to cover 50% of estimated operational risk capital was introduced in 2022, with a subsequent increase to 100% as of 1 January 2023.

Minimum market risk is estimated as the sum of trading book interest rate risk, equity risk, currency risk, and commodity risk that includes option risk sensitive to the respective type of risk.

At the same time, trading book interest rate risk and equity risk are estimated only for instruments in the trading book, while currency and commodity risks are estimated for instruments both in the trading book and in banking books.

Introduction of market risk was postponed due to martial law in Ukraine.

12. Is there a regulation concerning the large exposures? Describe its main elements.

Yes. The Instruction *On the Procedure for the Regulation of Banks Activities in Ukraine* approved by the NBU Board Resolution No. 368 dated 28 August 2001 (Instruction No. 368) sets ratio of maximum credit exposure per counterparty/group of related counterparties (accounts for no more than 25% of the bank's regulatory capital) and maximum exposure ratio of related party transactions (accounts for no more than 25% of the bank's regulatory capital).

Maximum exposure ratio per counterparty/group of related counterparties (N7 ratio) is estimated as the sum of all the bank's claims to the counterparty or a group of related counterparties and all financial liabilities assumed by the bank to the counterparty or group of related counterparties divided by the bank's regulatory capital.

Maximum exposure ratio of related-party transactions (N7 ratio) is estimated as the sum of all the bank's claims to the bank's related parties and all financial liabilities assumed by the bank to related parties divided by the bank's regulatory capital.

For estimating N7 ratio, two or more counterparties shall be treated as one counterparty (a group of related counterparties) and posing a single economic risk, provided either criterion is present: control relationship or economic dependency.

When calculating N7 and N9 ratios for estimating financial liabilities assumed by the bank for the counterparty, group of related counterparties, or related parties, CCF is applied, calculated in line with the Regulation *On Measuring Credit Risk on Bank Asset Transaction by Banks of Ukraine* approved by NBU Board Resolution No. 351 dated 30 June 2016.

Bank exposures in the trading book are considered for calculation of N7 and N9 ratios under general terms, excess of N7 and N9 ratios on the account of bank exposures in the trading book is prohibited.

For estimating maximum exposure ratios banks are authorized to use credit risk net of eligible collateral as prescribed in Instruction No. 368.

Regarding Credit Unions

Regulation *On Mandatory Financial Ratios and Requirements that Limit Risks of Financial Asset Transactions of Credit Unions* approved by Ordinance of the National Commission for the State Regulation of Financial Services Markets No. 1840 dated 19 September 2019 and registered by the Ministry of Justice of Ukraine as No. 1186/34157 dated 27 November 2019, the following credit risk ratios are to be complied with by all credit unions:

1) credit risk ratio (K3) estimated as the sum of remaining liabilities to a credit union under credit agreements of all related parties of the credit union divided by the capital of the credit union, not exceeding 25 %

2) credit risk concentration ratio (K4) estimated as the sum of remaining liabilities under loans issued to ten members of the credit union with biggest balances divided by common equity of the credit union, not exceeding 3.

13. Is there a regulation concerning the supervision on a consolidated basis? Describe its main elements. Are there plans to change the regulation? If so, please outline main changes, desired outcomes and a tentative timeline.

Consolidated supervision was introduced by Laws *On Financial Services, On Banks and Banking*, and No. 85/96-VR *On Insurance* dated 7 March 1996 (hereinafter – the Law *On Insurance*).

In particular, Article 16¹ of the Law *On Financial Services* prescribes that consolidated supervision is the supervision of financial groups for ensuring the banking system stability and mitigating the risks posed to a financial institution for participating in a financial group by means of regulation, monitoring and control of the risks of the financial group.

The NBU performs consolidated supervision over banking groups according to this and other laws of Ukraine, as well as over nonbank financial groups other than financial groups where the main activity is performed by financial institutions under the supervision of the NSSMC.

Article 7 paragraph 8¹ and Article 55¹ of the Law *On the National Bank* prescribe that the NBU conducts state regulation and supervision on individual and consolidated basis on nonbank financial markets of operations of nonbank financial institutions and other entities other than financial institutions but entitled to provide certain financial services within the limits set by the Law *On Financial Services* and other laws of Ukraine.

The state regulator of financial markets for the purpose of consolidated supervision is authorized to determine within a financial group subgroup consisting of at least two financial institutions and supervise them on subconsolidated basis.

The state regulator of financial markets according to distribution of authorities set out in the Article 16¹ of the Law *On Financial Services* – for the purpose of supervision on consolidated and subconsolidated basis can prescribe in its regulation requirements to financial groups and its subgroups in terms of:

- 1) availability of an efficient system of corporate governance
- 2) availability of an efficient system of risk management
- 3) availability of an efficient system of internal controls
- 4) availability of the accounting procedures, information systems necessary to ensure compliance with the requirements on consolidated basis
- 5) preparation and submission of the consolidated and sub-consolidated reports
- 6) capital adequacy of the regulatory capital;
- 7) economic ratios
- 8) limits and restrictions regarding certain types of activities, including with regard to the activities on the territory of other countries
- 9) procedure for submission of necessary reporting and data.

A financial group, its subgroups, and its participants are liable to comply with requirements set by state regulation authorities of financial markets.

A financial group is liable to assign among financial group participants an authorized person of the financial group and approve this entity with the respective state regulator of financial markets.

A legal entity or individual intending to become the controller of a financial group shall, via their authorized person, inform the state regulation authority of financial markets and submit to said authority the data on this financial group, including on the ownership structure of this group and types of operations and its participants according to the procedure established by the state regulator of financial markets.

The authorized person of the financial group is liable ensure compliance of financial group with requirements of the competent state regulator of financial markets.

Financial group participants are liable to submit to the authorized person of the financial group and to the state regulator of financial markets reports and documents necessary for preparation of consolidated reports as well as to ensure compliance with requirements to consolidated supervision.

Regarding the consolidated supervision of banking groups

The NBU set requirements to:

- identification of banking groups, criteria for recognizing subgroups of banking group (Regulation *On Procedure for Identification and Recognition of Banking Groups* approved by the NBU Board Resolution No. 134 dated 9 April 2012).
- requirements to operation of banking group (the Regulation *On Procedure for Regulation of Banking Groups Activities* approved by the NBU Board Resolution No. 254 dated 9 April 2012).

In line with Article 2 of the Law *On Banks and Banking*, a banking group shall mean a group of legal entities:

- having common controller comprising of a parent bank, its one or more Ukrainian and/or foreign subsidiaries and/or associated companies, that are financial institutions, or for which financial services is a predominant activity, or
- comprising of a parent bank that is a controller of its Ukrainian and/or foreign subsidiaries and/or associated companies, that are financial institutions, or for which financial services is a predominant activity, or
- having common controller comprising of two or more Ukrainian financial institutions, and/or companies for which financial services is a predominant activity, their Ukrainian and/or foreign subsidiaries and/or associated companies, that are financial institutions or for which financial services is a predominant activity, where banking prevails, or
- comprising of a nonbank financial institution or a company for which financial services is a predominant activity, which is a controller of its two or more Ukrainian and/or foreign subsidiaries and/or associated companies, that are financial institutions or for which financial services is a predominant activity, where banking prevails.

The bank holding company and the company that renders support services that have a common controller with the banking group participants shall be a part of the banking group.

Subgroups recognized within a banking group are subject to supervision and regulation on subconsolidated basis.

According to lines of business banking groups are divided into following subgroups:

- credit and investment subgroups (comprising banks and financial institutions)
- insurance subgroups (comprising insurance companies).

Operations of banking groups and subgroups are regulated by establishing requirements to:

- regulatory capital adequacy
- compliance with economic liquidity, credit risk, investment ratios.

Considering amendments to the Law *On Banks and Banking* adopted in 2021, the NBU at present takes measures (supported by the World Bank) on bringing provisions of the NBU regulations on capital adequacy and liquidity of banking groups in line with CRR/CRD requirements.

Regarding the consolidated supervision of nonbank financial groups

In line with aforementioned authorities, the NBU Board approved the Regulation regarding consolidated supervision over nonbank financial groups No. 128 dated 2 December 2021 that prescribes in particular:

the procedure of identification, recognition and derecognition of a nonbank financial group (initiated by the controller or according to supervision findings)

criteria for recognizing subgroups within a nonbank financial group

obligations and the NBU approval procedure of the controller, authorized person of a nonbank financial group

attributes that may indicate control relationship between financial institutions, supporting service institutions or a joint controller as well as conditions for assigning such attributes

requirements to adequacy of the regulatory capital of nonbank financial group, insurance group/subgroup, and to intra-group transaction and transactions of related parties nonbank financial group

specifics of preparing and submitting consolidated financial statements by nonbank financial groups subject to NBU supervision.

Regulation *On Organizing, Conducting, and Drawing-up Inspection Findings of Nonbank Financial Market Participants* approved by the NBU Board Resolution No. 22 dated 26 February 2021 (Regulation No. 22) prescribes specifics of conducting inspections as part of consolidated supervision. Considering that financial groups in line with law are not subject to inspections, Regulation No. 22 prescribes inspections of nonbank financial group participants and preparation of a separate report on inspection findings as part of consolidated supervision to be delivered to the authorized person of a financial group.

In addition, the NBU has also defined requirements to organization of the risk management system and internal control system of nonbank financial groups in other requirements that are undergoing legal expertise and being prepared for release and public discussion with nonbank financial market participants.

14. Are the institutions issuing electronic money regulated? If so, in which way?

In line with Article 57 of the Law *On Payment Services* electronic money issuers can be banks and electronic money institutions (nonbank financial institutions), foreign branches of payment institutions, postal operator, the NBU, state authorities, and local governments.

Electronic money issuers provide financial services of e-money issue and e-money transactions, including opening and servicing e-purses (Articles 5 and 10 of the Law *On Payment Services*).

In line with requirements of the Law *On Payment Services*:

- a bank is authorized to provide financial services of e-money issue and e-money transactions, including opening and servicing e-purses, only after being registered as electronic money issuer in the Payment Infrastructure Register (the Register)

- an electronic money institution and postal operators are authorized to provide financial services of e-money issue and e-money transactions, including opening and servicing e-purses, as well as specific financial payment services, provided said financial payment services are set out in the license in line with the Law *On Payment Services*, and provided said entities are recorded in the Register

– a foreign branch of the payment institution are authorized to provide financial services of e-money issue and e-money transactions, including opening and servicing e-purse in line with requirements set by Ukrainian law for e-money institutions, provided such foreign branch of the payment institution is certified pursuant to the Law *On Payment Services* and the NBU regulations

– the NBU is authorized to provide financial services of e-money issue and e-money transactions, including opening and servicing e-purse without a license in line with the Law *On Payment Services* and without being recorded in the Register

– a state authority and local governments are authorized to provide financial services of e-money issue and e-money transactions, including opening and servicing e-purse within its remit prescribed by Ukrainian law without a license in line with the Law *On Payment Services* and only after being recorded in the Register.

Electronic money issuers are overseen entities in terms of e-money issue, circulation, and use (Article 82 of the Law *On Payment Services*).

Pursuant to Article 7 of the Law *On the National Bank*, the NBU shall perform:

- banking regulation and supervision on an individual and consolidated basis
- state regulation and supervision on individual and consolidated basis in the nonbank financial services markets over activities of nonbank financial institutions and other entities other than financial institutions but entitled to provide certain financial services within the limits set by the Law *On Financial Services* and other laws of Ukraine.

Supervisory authorities

15. Which is the competent authority to grant a license to a credit institution and to supervise it? Has this authority other functions? Please provide information on the number, importance and outcome of investigation carried out by the supervisory authority over the last five years.

Pursuant to Article 2 of the Law *On the National Bank*, the NBU is the central bank of Ukraine, a special central body of the state administration, whose legal status, objectives, functions, powers, and principles for organization are determined by the Constitution of Ukraine, this Law, and other laws of Ukraine.

The city of Kyiv is the principal place of business of the Council of the NBU (hereinafter referred to as the NBU Council), Board of the NBU (hereinafter referred to as the NBU Board) and the central office of the NBU.

Articles 6 and 7 of the Law *On the National Bank* define the NBU functions.

According to the Constitution of Ukraine, the primary objective of the NBU is to ensure stability of the monetary unit of Ukraine.

When striving to achieve its primary objective, the NBU must be guided by the priority of achieving and maintaining price stability in the country.

The NBU, acting within the scope of its authority, promotes financial stability, including the stability of the banking system, without compromising its objective of price stability. The NBU also contributes to sustainable economic growth and supports the economic policy of Ukraine's Cabinet of Ministers if this has no detrimental effect on price stability in the country and stability in the country.

The NBU shall also be responsible for:

- defining and implementing monetary policy in line with the Monetary Policy Guidelines developed by the NBU Council
- solely issuing the domestic currency of Ukraine and organizing its circulation
- acting as a lender of last resort for banks and making the refinancing system available
- setting the rules for banks for conducting banking transactions, accounting and reporting, protection of information, funds, and property
- arranging the establishment and methodological support of the system of monetary and financial statistics, balance of payments statistics, international investment position, external debt, and statistical information of financial institutions subject to the state regulation and supervision exercised by the NBU
- regulating the operation of payment and settlement systems in Ukraine, defining the procedures and modes of payments, including interbank ones
- determining the directions of development of modern electronic banking technologies, creating and ensuring continuous, reliable, and efficient operation, development of the proprietary payment and accounting systems, as well as of the national system of electronic remote identification of the NBU (the NBU's BankID System), establishing the conditions of interaction of persons/entities in these systems, controlling the creation of payment instruments, banking automation systems, and means of protection of banking information
- banking regulation and supervision on an individual and consolidated basis
- state regulation and supervision on an individual and consolidated basis in the nonbank financial services markets over activities of nonbank financial institutions and entities other than financial institutions but entitled to provide certain financial services within the limits set by the Law *On Financial Services* and other laws of Ukraine
- approval of banks' charters and amendments thereto; licensing banking business and transactions, as permitted by applicable law; maintaining the State Register of Banks, creating and maintaining the Credit Register of the NBU
- keeping the State Register of Financial Institutions, the Register of Debt Collectors, and, in the cases defined by the NBU, other registers of entities other than financial institutions that are entitled to provide certain financial services, which are subject to state regulation and supervision by the NBU
- keeping the official Register of Payment Card Issuer Identification Numbers for the domestic payment systems
- preliminary eligibility assessment of the persons to be engaged in the insolvent bank resolution process and compiling a list of eligible persons

- representing Ukraine's interests in the central banks of other states, international banks and other credit institutions where the cooperation takes place at the level of central banks
- ensuring the representation of the interests of the NBU in the authorities of foreign states, protection of the rights and interests of the NBU in foreign jurisdictions
- currency regulation within the competence specified by a special law, establishing the procedure for transactions in foreign currency, currency supervision over banks, nonbank financial institutions, and postservice operators licensed by the NBU to conduct currency transactions
- creating, maintaining information systems (registers, databases) to perform the functions of currency regulation and currency supervision, as well as setting requirements for the creation, maintenance, filling of information systems (registers, databases) by banks, nonbank financial institutions, postal operators to ensure the exchange of information between them in the course of currency supervision
- ensuring the accumulation and safekeeping of the gold and foreign exchange reserve and conducting transactions with it and investment metals
- analysis and forecast of macroeconomic, monetary, foreign exchange and financial indicators, including the compilation of the balance of payment
- arranging and carrying out the collection of funds and transportation of currency valuables; issuing licenses to legal entities to provide cash collection services to banks, suspending, updating and revoking them, as prescribed by the NBU
- implementing the national policy of state secret protection within the NBU system
- taking part in the training of personnel for Ukraine's banking system
- defining specifics of operation of the banking system of Ukraine, nonbank financial institutions and entities other than financial institutions that are entitled to provide certain financial services and are subject to the NBU's regulation and supervision, including currency supervision, during a martial law or a special period, and carrying out mobilization preparation of the NBU system
- initiating in accordance with the procedure established by law the proposals regarding the legal regulation of the issues related to the NBU functions
- providing methodological support on issues of safekeeping, protection, usage and disclosure of the information that constitutes the bank secrecy
- exercising powers in the area of depository record-keeping within the competence
- performing other functions in the financial and credit sphere within its competence as established by law
- establishing the procedure of routing, clearing and mutual settlements between participants of the payment system under transactions performed in Ukraine with the use of payment cards issued by resident banks
- establishing the Certification Authority to maintain and update the Trust List by entering data on legal entities and sole proprietors intending to provide electronic trust services within the banking system of Ukraine and when transferring funds, pursuant to the Law of Ukraine No.2155-VIII *On Electronic Trust Services* dated 5 October 2017 (hereinafter - the Law *On Electronic Trust Services*)

• conducting state regulation of electronic identification in the banking system of Ukraine, for which the NBU shall set the following:

- requirements for certified electronic trust service providers that provide qualified electronic trust services within the banking system of Ukraine and when transferring funds, including requirements for their software and hardware

- procedure for providing and using electronic trust services within the banking system of Ukraine and when transferring funds

- procedure for providing to qualified electronic trust service providers the service on standard time signal transmission from the Certification Authority, within the banking system of Ukraine and when transferring funds

• issuing licenses to make money transfers without opening accounts to nonbank financial institutions and entities other than financial institutions but entitled to provide certain financial services, and revoking them according to law

• keeping the Register of Payment Systems, Settlement Systems, Participants and Payment Service Providers

• supervision (oversight) of the payment and settlement systems

• state regulation and supervision in the area of prevention and counteraction to legalizing (laundering) of proceeds from crime, terrorism financing and financing proliferation of weapons of mass destruction, over banks and subsidiaries of foreign banks; insurers (reinsurers), insurance (reinsurance) brokers, credit unions, pawnshops and other financial institutions (except for the financial institutions and other legal entities regarding which the state regulation and supervision in the sphere of prevention and counteraction is performed by the other state financial monitoring subjects); payment system operators, participants or members of payment systems providing financial services on the basis of the respective licenses or registration documents; postal service operators; other institutions providing services on fund transfer and currency transaction performance; subsidiaries or representation offices of foreign transactors providing financial services in the territory of Ukraine, legal entities other than financial institutions according to their legal status but providing certain financial services

• analysis of the financial system standing regarding financial stability

• determining the procedure, requirements, and measures of cyber security and information security in Ukraine's banking system and for parties engaged in funds transfers, exercising control over their implementation; establishing the Computer Security Incident Response Team of the NBU (CSIRT-NBU), ensuring operation of the cyber security system in Ukraine's banking system

• ensuring the formation and maintenance of a list of critical infrastructure objects and register of critical infrastructure objects in Ukraine's banking system, establishing criteria and procedure for attributing the objects of Ukraine's banking system to critical infrastructure objects and critical information infrastructure objects, providing an assessment of the cyber security status and information security audit in Ukraine's banking system

• protecting the rights of consumers of financial services provided by banks and other financial institutions as well as by entities other than financial institutions but entitled to provide certain financial services, which are regulated and supervised by the NBU

- exercising supervision over compliance of banks, other financial institutions, entities other than financial institutions that are licensed to provide certain financial services, and debt collectors, with laws and regulations regarding the protection of consumer rights in financial services, including requirements for interaction with the consumers when resolving past-due debts (ethical conduct requirements)

- organizing work and taking measures to improve the financial literacy of the public.

- setting requirements for the banks that will issue banks' certificates of deposit.

Law of Ukraine No. 79-IX *On Amendments to Certain Laws of Ukraine on the Consolidation of Functions of the State Regulation of the Financial Services Markets dated 12 September 2019* (hereinafter – the Law No. 79-IX) liquidates the National Commission for the State Regulation of Financial Services Markets since 1 July 2020 and splits the responsibilities of financial market regulation between the NBU and the NSSMC.

Pursuant to Law No. 79-IX, the State Commission for Regulation of Financial Services Markets transferred its responsibilities of regulation and supervision over the system of funded pension provision, financial and credit mechanisms and property management in housing construction and real estate transactions to the NSSMC. The NBU assumed the rest of the responsibilities.

The NBU's powers in the field of state regulation of nonbank financial services markets include the following:

- development and approval of legislative acts and regulations that are obligatory for implementation by central and local executive authorities, local self-government authorities, participants of financial services markets, their associations, and control of their implementation

- registration and maintenance of the State Register of Financial Institutions, and in cases specified by it, other registers of entities that are not financial institutions, but that have the right to provide certain financial services, maintenance of a publicly available information database on financial institutions, and determination of the list of and requirements for the documents submitted for entering information in said registers and database

- issuing to nonbank financial institutions and entities other than financial institutions but entitled to provide certain financial services, of licenses to provide financial services, determine the procedure for their issuing, suspension, renewal, and revocation (cancellation)

- definition of requirements for entities intending to conduct financial service activities, including requirements for their ownership structure, corporate governance system, risk management and internal control, terms of financial service activities the implementation of which requires appropriate licenses (terms of license), and the procedure for monitoring their compliance

- establishing mandatory criteria and standards of capital adequacy and solvency, liquidity, profitability, asset quality and risk of operations, compliance with the rules of financial services and other indicators and requirements that limit the risks of transactions with financial assets

- setting the fee for registration actions of the NBU with respect to nonbank financial institutions and entities other than financial institutions but entitled to provide certain financial services, as well as for issuing licenses by the NBU to provide financial services based on the NBU's cost recovery principle related to the provision of such services

- providing information upon requests for information, providing conclusions on the categorization of transactions as financial services

- putting restrictions on the combination of certain types of financial services

- controlling accuracy and completeness of the information provided by the financial services market participants

- supervision (control) over the compliance by nonbank financial institutions, as well as entities other than financial institutions but entitled to provide certain financial services, with the terms of carrying out activities for the provision of financial services

- conducting independently, or jointly with other state authorities, inspections of financial services market participants (except clients), as well as other legal entities and individuals engaged in financial services for which the law sets requirements for obtaining a license and/or registration, without a proper license and/or registration

- if a violation of legislation on financial services (except for the legislation regulating activities in the securities and derivatives markets, professional activities in the stock market and activities in the funded pension system) occurs, or a violation of NBU regulations takes place, the NBU has the right to apply corrective measures and impose administrative penalties

- sending to financial institutions, and self-regulatory organizations, mandatory orders to eliminate violations of legislation on financial services and protection of the rights of consumers of financial services and the request to provide the necessary documents

- sending materials to law enforcement authorities regarding the occurrence of offenses that became known during inspections

- sending materials to the Antimonopoly Committee of Ukraine in case of violations of legislation on the protection of economic competition

- request the convening of an extraordinary meeting of participants of the financial institution

- monitoring the movement of capital to Ukraine and abroad through financial services markets

- establishing requirements for software and special technical equipment of financial institutions related to the provision of financial services

- establishing the procedure for disclosure of information and preparation of reports by participants in financial services markets in accordance with Ukrainian legislation

- setting professional requirements for managers, chief accountants (persons responsible for accounting, including on the contract basis) of financial institutions, and the right to demand the dismissal of persons who do not meet the established requirements for such positions, or termination of relevant contracts

- approving in accordance with the laws regarding the regulation of certain markets of financial services of documents of financial institutions that determine the requirements for the provision of financial services

- establishing the conditions and procedure for conducting an internal audit (control) in financial institutions

- setting a procedure for approval of acquisition or increase in a qualifying holding in a financial institution
- protecting consumer rights in financial services.

Also, since 1 July 2020, the NBU is responsible for state regulation of the credit union market.

Article 8 of Law *On Credit Unions* stipulates that the NBU shall grant a status of a financial institution to a credit union in accordance with the Law On Credit Unions and the NBU regulations.

The status of a financial institution shall be granted by means of the respective entry in the State Register of Financial Institutions (hereinafter – the State Register).

The NBU issues to a credit union a certificate of incorporation in the form determined by the NBU.

The activity of credit unions on attracting their members' contributions (deposits) to deposit accounts as well as other types of their activities shall be licensed in accordance with the law.

The NBU determines the procedure for issuing or revoking (cancelling) credit union licenses, terms and conditions for engaging in certain types of business of credit unions that require a respective license, as well as the control procedure for compliance therewith.

Regarding bank inspections

During 2017–2021, the NBU continued to implement the risk-based approach to conducting onsite inspections of banks. In 2020, the NBU completed the integration of supervisory assessments based on the results of onsite inspections and offsite supervision as part of the single supervisory assessment of banks based on the SREP methodology (Supervisory Review and Evaluation Process). The overall SREP score of a bank is calculated on the basis of assessment of the following elements: its business model, corporate governance and internal controls, capital adequacy, liquidity adequacy of the bank. Until 2020, the NBU applied CAMELSO rating system to assess banks during onsite inspections.

During the previous five years, the NBU conducted 194 onsite inspections of banks, including 113 scheduled inspections and 81 unscheduled inspections.

Number of onsite inspections

	2017	2018	2019	2020	2021	Total
Banks	64	46	62	10	12	194
<i>scheduled</i>	<i>35</i>	<i>25</i>	<i>50</i>	<i>3</i>	<i>-</i>	<i>113</i>
<i>unscheduled</i>	<i>29</i>	<i>21</i>	<i>12</i>	<i>7</i>	<i>12</i>	<i>81</i>

The main areas of onsite inspections scheduled for 2017-2020 included: CAMELSO comprehensive assessment (components: capital, assets, management and corporate governance, earnings, liquidity, sensitivity to market risks, operational risk) or its separate components. Due to implementation of measures aimed at the prevention of the occurrence and dissemination of

coronavirus disease (COVID-19), the NBU halted all scheduled onsite inspections starting from March 2020.

Unscheduled onsite inspections focused on the following issues: adequacy of credit risk assessment and capital adequacy, assessment of liquidity risk and its management, reliability of reports submitted to the NBU, compliance of the bank's internal processes and procedures with the requirements of banking laws and regulations, assessment of compliance with the established restrictions, assessment of impact of related party transactions, etc.

As part of Ukraine's obligations in the cooperation framework with the IMF set forth in the Memorandum on Economic and Financial Policies, the NBU also focused its onsite inspections on asset quality review, assessment of capital adequacy of banks, assessment of collective suitability and qualification of senior management, assessment of risk management system in banks, etc.

Based on the inspections results, the NBU established the need in adjustment (reducing) of the regulatory capital in banks by UAH 14.0 billion, uncovered credit risk by UAH 13.6 billion, and financial results by UAH 0.3 billion.

The supervisory actions based on inspection findings were focused on offering constructive and effective recommendations in order to avoid repeated violations and to eliminate vulnerabilities in banks' activities, based on best practices and professional judgement.

In addition, the NBU imposed measures on banks that were adequate to the identified violations.

Corrective measures imposed on banks (respective of the year of the inspection)

	2017	2018	2019	2020	2021	Total
Written warning	2	1	8	3	9	23
Restriction, termination or suspension of certain types of transactions performed by a bank	-	1	-	3	1	4
Fine imposed on bank	4	-	1	-	2	7

Onsite inspections of nonbank financial institutions

Starting 1 July 2020, the NBU became the regulator of the market for nonbank financial services, which comprises insurance companies, leasing companies, factoring companies, credit unions, pawnshops, and other financial institutions.

Exercising its function of carrying out inspections to supervise the nonbank financial services market, the NBU in 2021 conducted 53 unscheduled inspections of nonbank financial services market participants, including the following:

Type of nonbank financial services market participant	Number of inspections in 2021
- insurance companies	18

- credit unions	10
- other financial institutions	25

Scheduled onsite inspections were halted due to the implementation of measures aimed at the prevention of the occurrence and dissemination of coronavirus disease (COVID-19).

Based on the results of the unscheduled inspections, some nonbank financial institutions were subject to corrective measures due to violations of regulatory requirements, in particular:

Corrective measure	Number of nonbank financial institutions
revocation of license for providing financial services	34 (11 insurance companies 2 credit unions 21 other financial institutions)
temporary suspension of license for providing financial services	1 (credit union)
obligation to take measures to eliminate the violation and its drivers	1 (financial institution)

The main reasons for the imposition of the corrective measure of revoking a license to provide financial services were as follows:

- refusal of a nonbank financial institution to be inspected, particularly refusal to give access for the NBU's authorized inspectors to conduct an onsite inspection
- non-provision of documents and information regarding the object being inspected
- refusal to give access to the premises and sites used to provide financial services.

16. How is the operational independence of the supervisory authority ensured, in line with international standards (Basel Committee, the International Organisation of Securities Commissions (IOSCO) and the International Association of Insurance Supervisors (IAIS) core principles)?

The NBU's operational independence in accordance with the Principle 1 of the Core Principles for Effective Banking Supervision and ICP 2 Supervisor standard of the IAIS is achieved as follows:

Regulatory framework – The NBU carries out state regulation and supervision on an individual and consolidated basis for bank and insurance activities, performs the functions within the powers stipulated in *Law On the National Bank*, *Law On Financial Services*, *Law On banks and banking*, *Law On Insurance*.

The legislation stipulates that the NBU is the central bank of Ukraine, a special central body of the state administration (Article 2 of the Law *On the National Bank*), and any interference of the public authorities, other public institutions or their officials, any legal entities or individuals in the exercise of its functions and powers (as well as those of the NBU Council, the NBU Board, or NBU employees) shall be prohibited (Article 53 of the Law *On the National Bank*). The NBU shall be accountable to the President of Ukraine and the Verkhovna Rada of Ukraine within their constitutional authority (in terms of appointment and dismissal of the NBU Governor, members of the NBU Council) (Article 51 of the Law *On the National Bank*).

Transparency and security – The Law *On the National Bank* defines the composition and procedure for forming and operating the NBU Board and its committees, appointing officials, defining responsibilities and powers, dismissing the NBU Governor, their deputies, members of the NBU Board (Articles 16-20 of the Law *On the National Bank*). The powers and procedure for operating the supervisory body of the NBU – the NBU Council – are defined by Articles 8 - 13-1 of the Law *On the National Bank*.

The NBU shall ensure legal protection (in the case of lawsuits or engagement in administrative or criminal proceedings) of members of the NBU Board, other NBU officials, members of the NBU Council, experts involved, who are not responsible for any action or inaction if they acted on the basis of and within the powers.

The NBU declares transparency as one of its basic principles and informs the public about its activities by publishing relevant information (financial statements by the NBU, annual reports by the NBU, a list of insurance market participants, financial statistics of insurance market participants, general information on measures taken in relation to market participants, etc.) on its official website and in the NBU's official publications.

Carrying out its legislation-related activity, the NBU annually publishes a plan for the development of regulatory acts, draft regulations, reports on basic, regular and occasional monitoring of the effectiveness of regulatory acts, conducts regular meetings with insurance market representatives to discuss challenges on the market, processes feedback on published draft regulations, etc.

However, market participants may appeal in court against decisions (regulations or individual acts), actions or inaction of the NBU, its officials and representatives (Article 74 of the Law *On the National Bank*).

Resources – The NBU is an economically independent body that carries out expenditures at the expense of its own revenues (Article 4 of the Law *On the National Bank*), has sufficient resources of qualified experts to ensure effective regulation and supervision of the insurance market.

Confidentiality – The NBU, while supervising the financial market, shall ensure information confidentiality under the Law *On banks and banking* (Article 61), Law *On Insurance* (Article 40) and share information with relevant supervisory authorities of other states in accordance with memoranda of cooperation (Article 32 of the Law *On Financial Services*, Article 67 of the Law *On banks and banking*, Article 46 of the Law *On Insurance*).

Additionally, in September 2020, the NBU Board approved the decision to join the IAIS. The application was sent to the organization. On December 2, 2020, the IAIS Annual Meeting approved

the NBU membership (after paying the membership fee). Given the tax status of the IAIS and difficulties in obtaining the tax residence certificate required to apply the provisions of the *Convention between the Government of Ukraine and the Swiss Federal Council on the avoidance of double taxation regarding income and capital taxes*, the NBU cannot pay the membership fee without withholding non-resident income tax. It makes it impossible to carry out the payment in full. Currently, the process of finding solutions to this issue is underway. At the same time, the NBU joins certain IAIS events, including the Annual Meeting.

The NBU is a member of the Basel Consultative Group established by the Basel Committee on Banking Supervision (hereinafter the Committee) and actively participates in its work. The NBU takes part in Committee activities according to its invitation, including Annual High-Level Meetings on the Supervision of the European region, online conferences/meetings. In addition, the NBU uses the FSI Connect platform established for the world's supervisory institutions by the Financial Stability Institute.

Since September 26, 1996, the NSSMC is an ordinary member and the sole representative of Ukraine in the International Organization of Securities Commissions (IOSCO), which gives it the right to vote during regular meetings. The NSSMC as an ordinary member of the organization pays an annual membership fee to IOSCO.

The NSSMC has worked fruitfully in recent years to harmonize national legislation in accordance with international standards and, in particular, the IOSCO Principles, in order to join Ukraine in the Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information of the International Organization of Securities Regulators (IOSCO MMoU).

However, Ukraine is currently unable to meet its mutual obligations to other members of the IOSCO MMoU due to significant gaps in its supervisory, investigative and law enforcement powers, as well as in its powers of international cooperation.

That is why the NSSMC has developed the draft Law No. 5865 dated 26 August 2021 on state regulation of capital markets and organized commodity markets (hereinafter – the draft Law No.5586), which was adopted as a basis in the first reading. This draft Law is an important element in comprehensive financial market reform, which should bring state regulation of capital markets in Ukraine closer to the standards of developed markets, as well as increase the regulatory capacity of the NSSMC, expand its powers to effectively protect against securities abuse, improve the discipline of Ukraine's market participants, increase investment in Ukraine's economy by enhancing confidence in the effectiveness of state stock market regulation.

Also, the purpose of the development of the draft Law is to build in domestic capital markets and organized commodity markets an effective system of anti-abuse in accordance with the IOSCO Principles and the provisions of relevant European Union acts governing the fight against market abuse, as well as to ensure Ukraine's compliance required for the accession of the domestic stock market regulator to the IOSCO Memorandum, which will provide the legal conditions for its international cooperation in this area.

In order to increase the level of cooperation with this organization, the NSSMC participates in the IOSCO Annual Conferences, which confirms the interest and desire of the Ukrainian securities market regulator to work with other regulators to implement the best international standards for capital market regulation.

17. Are professionals employed by the supervisory authority subject to limitations (time or other) regarding the possibility to be employed as senior staff in commercial banks? Please explain.

Pursuant to Article 65 of the Law *On the National Bank*, the provisions of Law of Ukraine No. 1700-VII *On Corruption Prevention*⁶ dated 14 October 2014 (hereinafter – the Law *On Corruption Prevention*) applies to the NBU Board members, other NBU officials, and members of the NBU Council. The NBU Board members, other NBU officials, and members of the NBU Council shall be obliged to comply with the restrictions after leaving the office, as well as to take measures to avoid or resolve conflict of interest provided for by the Law *On Corruption Prevention*.

According to Article 3 part 1 paragraph 1 of the Law *On Corruption Prevention*, the provisions of the Law apply to the NBU governor, their first deputy governor, deputy governors, and other NBU officials that work for the units responsible for supervisory activities mentioned in the Laws *On the National Bank*, *On Banks and Banking*, *On Financial Services* and other laws.

Laws *On Corruption Prevention* and *On the National Bank* set the restrictions, including the following:

1. Article 26 part 1 paragraph 1 of the Law *On Corruption Prevention* stipulates that the above persons who have been dismissed or otherwise ceased performing the functions at the NBU are prohibited for a year from the date of terminating the respective activity, to enter into employment contracts (agreements) or enter into business activities with private legal entities or sole proprietors, if such NBU officials exercised powers to control, supervise or prepare or make appropriate decisions regarding the activities of these legal entities or sole proprietors within one year before terminating functions.

Violation of the restriction regarding entering into an employment agreement (contract) shall be grounds for termination of the respective agreement.

Business transactions/deeds entered into in violation of Article 26 part 1 paragraph 1 of the Law *On Corruption Prevention* may be deemed null and void.

In case of detection of violations provided for in Article 26 part 1 of the Law of Ukraine *On Corruption Prevention*, the National Agency on Corruption Prevention shall apply to the court to terminate the employment agreement (contract) and declare the deed null and void.

The restrictions established in this Article shall apply to the NBU Council members (Article 65 part 1 of the Law *On the National Bank*).

2. Pursuant to Article 25 part 1 of the Law of Ukraine *On Corruption Prevention*, the persons referred to in Article 3 part 1 paragraph 1 of the Law are prohibited:

1) to engage in other paid (except for teaching, scientific and creative activity, medical practice, instructor and refereeing practice in sports) or entrepreneurial activity unless otherwise provided by the Constitution or laws of Ukraine

⁶ <https://zakon.rada.gov.ua/laws/show/1700-18?lang=en#Text>

2) to be a member of a board, other executive or regulatory bodies, supervisory board of an enterprise or a for-profit organization (except when persons manage shares (parts, stakes) belonging to the state or community, and represent interests of the state or community in a council (supervisory board), revision commission of economic entity) unless otherwise provided by the Constitution or laws of Ukraine, except for the cases mentioned in part 2 indent 1 of this Article.

3. Pursuant to Article 18 part 4 of the Law *On the National Bank*, a person cannot be appointed the NBU governor, if they are an employee of a legal entity, including its head or a member of the management body of the legal entity (except for the NBU and other legal entities where the participation of NBU representative in governing bodies is required by the law or some shares (stakes) are owned by the NBU), or own directly or indirectly shares (stakes) of a legal entity subject to the NBU's regulation and supervision.

4. Pursuant to Article 20 part 5 of the Law *On the National Bank*, a person cannot be appointed the NBU deputy governor, if they are an employee of a legal entity, including its head or a member of the management body of the legal entity (except for the NBU and other legal entities where the participation of NBU representative in governing bodies is required by the law or some shares (stakes) are owned by the NBU), or owns directly or indirectly shares (stakes) of a legal entity subject to the NBU's regulation and supervision.

5. Pursuant to Article 10 part 4 of the Law *On the National Bank*, a person cannot be an NBU Council member, if they are a member of supervisory or management boards, or an employee of a legal entity subject to the NBU's regulation and supervision, or is a party in employment relations or performs activities (works) or provides services under a contract or as a volunteer to such a legal entity or provide services under civil law contract to such a legal entity, or owns directly or indirectly shares (stakes) of a legal entity subject to the NBU's regulation and supervision.

18. Does the supervisory authority have institutional cooperation with other domestic supervisory authorities and with home supervisory authorities of foreign banks present in the market?

The NBU cooperates with the public authorities of Ukraine and supervisory authorities of other countries.

Article 22 of Law *On Financial Services* stipulates that the NBU and the NSSMC shall cooperate according to the provisions of this Law.

The NBU and the NSSMC, using means of commission that allow recording information, shall ensure timely communication about any findings and conclusions on the operation of the banks necessary to carry out their duties.

The NBU and the NSSMC have the right to access each other's databases that are maintained for the purpose of regulating the financial services market.

The head of a state regulator of the financial services market or their authorized person takes part in the operation of another state regulator of the financial services market with the right to a consultative vote when the issues of supervision over financial services providers are discussed.

Seeking to collaborate and coordinate their efforts, the NBU and NSSMC shall call operational meetings at least once a month or more often as requested by either head of these institutions. The

results of these meetings are documented in the respective minutes and/or interagency agreements. Both state regulators of the financial services market are obliged to consider and implement the decisions mentioned in these minutes and agreements.

The NBU and the NSSMC conducting consolidated supervision over financial groups shall share with each other information regarding the participants of these groups using the procedure set by them.

The NBU and the NSSMC conducting consolidated supervision over financial groups may request one another to initiate an inspection of the financial institution that is a part of a financial group.

The NBU and the NSSMC conducting consolidated supervision over financial groups may request one another to initiate corrective actions regarding the financial institution that is a part of a financial group.

The NBU and the NSSMC cooperate with foreign supervisors to conduct consolidated supervision.

The cooperation shall take place on the basis of concluded agreements, memorandums or in other forms.

Authorities that perform state regulation of financial services markets shall cooperate with each other within their competence in order to ensure the protection of the financial services consumers' rights, including exchanging information on consumer complaints, offenses in the financial services market, and persons prosecuted.

As part of the information cooperation, the NBU has the right, upon the request of a bank intending to operate in the capital markets, to provide the NSSMC with the documents and information containing bank secrecy required for obtaining the license to conduct professional activities in the capital markets and regulated markets, and necessary for exercising supervision over a said bank.

Moreover, Article 62² of the Law *On Banks and Banking* specifies that in accordance with an international treaty of Ukraine or under the principle of reciprocity, the NBU shall have the right to provide information obtained in the course of banking supervision to a banking supervision authority of the other state and to receive such information from a banking supervision authority of the other state. The NBU has the right to disclose the information constituting bank secrecy that was obtained by it from a supervisory authority of the other country solely upon prior consent of such authority.

In line with Article 67 of the Law *On Banks and Banking*, in the course of supervision over the institutions, which carry out banking activity in other countries, the NBU shall cooperate with the relevant bodies of those countries.

When exercising its supervision function, the NBU cooperates with other authorities regulating the markets of financial services in Ukraine, as well as with the respective authorities of other countries engaged in the supervision. The cooperation shall take place on the basis of concluded agreements, memorandums or in other forms.

As of today, the NBU has the following agreements and MoUs signed:

- Agreement on Informational Cooperation between the National Securities and Stock Market Commission and the National Bank of Ukraine No.114/14 dated 30 December 2013

- MoUs (agreements) on cooperation in the area of banking supervision with supervisory authorities of Armenia, China, Cyprus, Kyrgyzstan, Latvia, Lithuania, Luxemburg, Poland, Turkey, Sweden, Greece, Kazakhstan, and Montenegro.

Also before the imposition of martial law, the process of updating the contractual framework for cooperation on supervision with the Central Bank of Hungary was launched.

Given the Russian aggression against Ukraine, the NBU decided to terminate the agreements with Russia and Belarus.

19. What specific measures have been taken in order to improve the evaluation of credit risk and the quality of the loans' portfolios? Are international standards in relation to the recognition of bad debts and provisioning in place?

For accounting and reporting purposes, the banks adhere to IFRS 9 *Financial Instruments* when assessing expected credit losses and provisioning. NBU Board Resolution No.14 dated 21 February 2018 has approved the *Instruction On Accounting of Financial Instruments Transactions in Ukrainian Banks* that establishes the basic requirements for representation in the accounting of estimated loan loss allowances for financial assets and liabilities according to IFRS.

So, banks of Ukraine account allowances and show them in financial reports in compliance with IFRS and measure credit exposure in accordance with BCBS recommendations and EU standards, in particular Regulation (EU) No. 575/2013. If the credit exposure measured according to Basel exceeds the allowances accounted in accordance with IFRS, the difference is factored in the calculation of the regulatory capital.

Furthermore, to settle the issue of write-off of impaired financial assets through loan loss allowances under IFRS 9 and international practices, the NBU assisted by the World Bank has developed the *Regulation On Defining Criteria for Writing Off Impaired Financial Assets of Banks of Ukraine Through Estimated Loan Loss Allowances* that was approved by NBU Board Resolution No. 49 dated 13 April 2020.

Banks measure credit exposure for supervision purposes in compliance with Regulation *On Measuring Credit Exposures* approved by NBU Board Resolution No. 351 dated 30 June 2016 (as amended) (hereinafter – Regulation No. 351), which requirements:

- are aimed at ensuring timely and adequate measuring by banks of expected losses due to credit exposures, and
- are based on the principles and recommendations of BCBS (including, Principle 18 of Core Principles for Effective Banking Supervision requiring that the supervisory authority shall determine whether the banks' loan classification and allowances are sufficient for the supervisory purposes), and EU acquis, in particular, Regulation (EU) No. 575/2013.

In accordance with *Instruction On the Procedure for Regulation of Bank Activities in Ukraine* approved by NBU Board Resolution No. 368 dated 28 August 2001, while calculating capital adequacy ratios, the banks additionally reduce their regulatory capital by the amount of the uncovered credit risk that is defined as the excess amount of credit exposure calculated according to Regulation No. 351 over the allowances under IFRS (if the allowances under IFRS are deemed insufficient for supervisory purposes).

20. What powers does the supervisory authority possess in order to require supplementary periodical information? Can the authority carry out on-the-spot verification?

Pursuant to Article 67 of the Laws *On Banks and Banking*, while performing offsite supervision, the NBU is authorized to:

- 1) demand in writing from the bank the copies of documents and written explanations on issues of its activities
- 2) authorize the official(s) of the NBU to supervise the bank's activities, and inform the bank thereof within two business days from the date of such authorization.

The bank shall furnish the NBU upon the written request of the latter with the requested information and copies of the documents.

The authorized official of the NBU shall be entitled to:

- 1) free access to all premises of the bank during working hours
- 2) free access to the bank's information related to its activities and any transactions, as well as to all documents of the bank, including those containing restricted information in paper and electronic formats
- 3) free access to systems of automation of the banking transactions
- 4) make and withdraw (carry out of the bank premises) copies of the documents that indicate the bank's violations of the Ukrainian law and the NBU's regulations
- 5) be present at general meetings of the participants in the bank, meetings of the bank's supervisory board, management board, and committees.

The bank's management is obliged to provide the NBU's authorized official with the free access during working hours to all premises of the bank, information systems of the bank in a view mode, and advisory support on issues of those systems functioning, and ensure the provision of information, documents, and written explanations on the bank's activities, including about any transactions of the bank. The bank is obliged to inform the NBU authorized official in advance (not later than one business day prior to the event) about the general meetings of the participants in the bank, supervisory board meetings, management board meetings, and meetings of the bank's committees (the mandatory establishment of which is defined in the Law *On Banks and Banking*) to be held, including the agenda, and ensure the conditions that allow his/her participation in such meetings.

Article 71 of the Law *On Banks and Banking* states that each bank shall be subject to inspections by the persons authorized by the NBU.

The bank managers and employees are obliged to ensure the free of charge access in a view mode of the NBU authorized persons to all information systems of the bank, as required to conduct the inspection, selection and upload of required information for further analysis, to advise on any matters about the functioning of the systems, as well as information, documents, and written explanations on matters concerning the bank activities. The bank managers are obliged to ensure the free of charge provision to the NBU's authorized persons of the information, copies of documents,

including those stored in the bank's information systems, according to the procedure prescribed by the NBU.

The NBU may take a decision to perform an unscheduled inspection of the bank if sound grounds for doing so exist.

The NBU's authorized persons are entitled to receive from the bank the information, documents and copies thereof, written explanations on bank activity issues, withdraw (carry out of the bank premises) written explanations, and make copies and withdraw (carry out of the bank premises) them, including those that testify to the violations of the Ukrainian law, including the NBU's regulations.

In the course of inspections of banks, the persons authorized by the NBU shall be entitled to inspect any reporting of any affiliate of the bank and any congenerous person thereof with regard to their relationships with the bank for the purpose of determining the effect of such relationship on the bank position. For inspection purposes, the affiliates and congenerous persons of the bank shall facilitate the NBU in its efforts in line with this Article and in the same manner as applied to the banks.

In line with Section II paragraph 12 of the Regulation *On Offsite Banking Supervision by the National Bank of Ukraine*, approved by NBU Board Resolution No. 135 dated 6 December 2018 (hereinafter – Regulation No.135), the banking supervision unit has the right to request from a bank or other entities under the NBU's supervision any written explanations, information, and documents (their copies/scanned copies, extracts thereof) regarding transactions and certain operational issues, information about the bank's related parties, the bank's internal documents (their copies/scanned copies) by sending a respective request.

The request shall be drawn up as the NBU's official letter signed by the head of the banking supervision unit or their deputy and shall be sent via post or the NBU's e-mail.

In line with Section II paragraph 15 of Regulation No.135, the banking supervision unit has the right to initiate working meetings with managers and employees of a bank and engage specialists from other NBU structural units to discuss any issues that arise during offsite banking supervision.

Section III paragraph 16 of Regulation No.135 establishes that the NBU shall upon reasonable grounds decide on conducting a desk audit of a bank during offsite banking supervision of individual aspects of the bank's operation or executed transactions.

Section III paragraph 16 of Regulation No. 135 establishes that the NBU's authorized person shall decide on conducting a desk audit of the bank. The decision shall be formalized as a regulation of the NBU that can be amended (as needed).

The desk audit shall be conducted without advanced notice (paragraph 20 of said Regulation).

As part of the desk audit, the banking supervision department shall file, if considered necessary, a request for written explanations, information and documents as set out in Section II of Regulation No. 135 (paragraph 21 of said Regulation).

If a detailed examination of events within the scope of the desk audit is required, the banking supervision department shall have the right to send the bank additional requests for written explanations, information, and documents covering any operational period.

Section IV of Regulation No. 135 specifies that the NBU shall authorize employee(s) of the NBU to supervise the bank operations in line with Article 67 of the Law *On Banks and Banking*.

The authorized employee shall have the right:

- 1) to receive from the bank's top managers, upon written request, information, documents (copies/scanned copies, and extracts thereof) and written explanations of the bank operation, any transactions of the bank, compliance with the banking law, the NBU's regulations, requirements and restrictions imposed on the bank operation by the NBU, as well as the bank's strategy and implementation of the bank's business plan
- 2) to have free access to all premises of the bank during working hours and to systems of automated banking transactions
- 3) to initiate during their visit to the bank working meetings with top managers and employees of the bank to receive explanations of the bank operation and information on the measures the bank is taking to eliminate violations and shortcomings in the bank's operation, ensure the bank's financial stability, and comply with the bank's business plan
- 4) to read the bank's documents on any of the bank's transactions in order to establish risks that the bank may incur
- 5) to make and take out copies of documents (scanned copies, extracts thereof) including copies of documents evidencing violations by the bank of the banking law and the NBU's regulations, and engagement in risky operations, executed in compliance with the set requirements and required for follow-up supervisory measures
- 6) to be present at general meetings of the shareholders, meetings of the bank's management and supervisory boards, and committees of the management and supervisory boards.

The authorized employee, upon the bank's consent, shall be present at the meetings held by the bank on the bank operation, working meetings of the bank's top managers with potential investors of the bank on sale and reorganization of the bank, deciding on financial recovery options on the account of holders/shareholders/investors.

21. How can the supervisory authority ensure that board members, managers and directors act in a fit and proper way? Can it intervene directly if they do not?

In order to hold a position as a manager or director in a bank a person must be approved by the NBU. The NBU checks whether a person is fit and proper within the procedure of the approval on a position and ensures the monitoring of compliance with fit and proper requirements on a constant basis. Due to the supervision, the NBU has the right to demand from the bank the dismissal of a person from the position if he or she is not fit and proper.

- Managers of a bank (chairperson, their deputies and members of the bank's supervisory board, chief executive officer, their deputies and members of the bank's management board, chief accountant), chief risk officer, chief compliance officer, and head of internal audit unit ***shall have an irreproachable business reputation***. Attributes of compromised business reputation are set out in Section II of the Regulation *On Bank Licensing* approved by NBU Board Resolution No. 149 dated 22 December 2018 (hereinafter – Regulation No. 149).

- Managers of a bank (chairperson, their deputies and members of the bank's supervisory board, chief executive officer, their deputies and members of the bank's management board, chief accountant), chief risk officer, chief compliance officer, head of internal audit unit, and designated

AML officer shall meet **the fit and proper criteria** set in Section VI chapter 38 of Regulation No.149.

General fit and proper criteria for a bank's manager are as follows:

1) a candidate shall have:

- a higher education degree
- pool of knowledge, professional and managerial experience sufficient to properly perform duties assigned (taking into account the key business lines, strategy, and business plan of a bank as well as workload and responsibilities of a bank's top manager)
- enough time to perform assigned responsibilities

2) no actual or potential conflicts of interests impeding the proper performance of managerial duties

3) compliance with restrictions set in Article 26 of the Law *On Corruption Prevention*, Articles 39, 42 of the Law *On Banks and Banking* and Article 65 of the Law *On the National Bank*.

Head of the internal audit unit, chief risk officer, and chief compliance officer shall meet qualification requirements, including fit and proper criteria for a bank's top manager.

The following top managers of a bank shall meet additional fit and proper criteria:

1) chairperson of the management board shall have at least five years in total of experience in the banking and/or financial sector including at least three years in managerial positions

2) member of the board shall have at least three years in total of experience in the banking and/or financial sector

3) chief accountant shall have at least five years in total of experience in accounting in the banking and/or financial sector

4) deputy chief accountant shall have at least two years in total of experience in accounting in the banking and/or financial sector

5) designated AML officer shall meet requirements set by the NBU regulation on financial monitoring execution by banks

6) chief risk officer and chief compliance officer shall meet requirements set by the NBU regulation on the organization of the risk management system in a bank

7) head of the internal audit unit shall meet requirements set by the NBU regulation on the organization of internal audit in a bank.

• Independent directors shall meet **general requirements to independency** as set by Section VI chapter 38 paragraph 314 of the Regulation, namely to the general requirements to independence as mentioned in Article 53¹ of the Law of Ukraine *On Joint Stock Companies* and the following additional requirements to independency:

1) a person shall not be a shareholder of a bank

2) a person has not been for the past three years and shall not be a qualifying holder in a bank and/or representative of a qualifying holder in a bank under any civil law contracts

3) a person shall not be one of 10 major ultimate key participants in a bank ownership structure and/or representative of one of 10 major ultimate key participants of a bank ownership structure under any civil law contracts (the requirements shall apply in the case when a total holding in a bank exceeds one percent)

4) there is no information on the performance of duties of an independent member of a supervisory board of a legal entity in the interest of other legal entities, entities and/or based on instructions of such legal entity management, qualifying holders of such entity (except instructions approved by the general meeting of shareholders (sole shareholder) of such legal entity issued based on requirements set by the law).

Charter and/or other internal documents of a bank may set additional requirements to independence of an independent directors.

A member of the bank's supervisory board (a candidate for the position) shall have knowledge in corporate governance and banking and related regulatory requirements in a scope required to efficiently perform their duties in a supervisory board.

- The supervisory board and the management board of a bank shall *possess the collective suitability* and assess how they ensure the effective management and control over the bank's operation, taking into account the bank's size, complexity, volumes, types, and nature of its operations, its organizational structure and risk profile, and the specifics of a systemically important bank (in the case the bank has such a status) and/or the activity of the banking group where the bank belongs.

The members of the management board of a bank shall be able to jointly make respective decisions, considering the business model, risk profile, strategies, and markets where the bank operates.

Knowledge, skills, and experience of the supervisory board members of a bank shall be sufficient to cover all areas of the bank's activities and make respective managerial decisions.

Members of the bank's supervisory board shall be able to jointly exercise effective control over the activities of the bank's management board.

At least half of the members of the bank's supervisory board, including its chairperson, should have at least three years of experience in the banking and/or financial sector.

Knowledge, skills, and experience of the members of the bank's supervisory board shall be sufficient to make decisions within the competence of the bank's supervisory board conferred upon it by the law of Ukraine and the bank's articles of association.

The bank shall be responsible for the collective suitability assessment of members (candidates) of the supervisory board and the management board.

The findings of the collective suitability assessment of members (candidates) of the bank's supervisory board and the management board shall be reflected in the information submitted to the NBU and based on conclusions made during the interview with a person, information about their practical professional experience, personal accomplishments, theoretical knowledge acquired through professional development that is certified by documents and may indicate the level of competence of a person (employment record book, diplomas, certificates, documents confirming qualifications, and other documents received at previous workplaces and in professional development).

The NBU shall determine whether the bank's supervisory board and the management board possess the collective suitability and assess how they ensure the effective management and control over the bank's activities based on the results of licensing, monitoring, and offsite and onsite supervision over a bank.

- Section VI of Regulation No. 149 defines the procedure for obtaining approval for the appointment of the bank's senior management, chief risk officer, chief compliance officer, head of internal audit, and bank's key function holder and notification about their appointment.

22. What are the powers of intervention of the supervisory authority in case of undertakings in difficulties? Under what circumstances may the authorisation of a credit institution be withdrawn?

Article 44 of the Law *On Banks and Banking* stipulates that the banks shall be obliged to meet the NBU's requirements to develop and submit to the NBU their business continuity plans, crisis financing plans, and recovery plans.

Also, the NBU is authorized to set requirements for a banking group and/or banking subgroup on a consolidated and sub-consolidated basis regarding the development of business continuity plans, crisis financing plans, and recovery plans (Article 9 of the Law *On Banks and Banking*).

Articles 75 and 76 of the Law *On Banks and Banking* also set criteria whereunder the NBU is obligated to declare a bank problem/insolvent.

Article 75 of the Law *On Banks and Banking* lists criteria for a problem bank, namely the NBU is obliged to declare a bank problem, if a bank meets at least one of the following criteria:

- the bank, within 30 calendar days in a row, has committed a violation of the minimum capital adequacy ratio and/or core capital adequacy ratio set by the NBU regulations which are calculated every ten days – at least two times (this paragraph is temporarily waived by part VII paragraph 13 for the duration of martial law and four months following its suspension or termination)

- the bank, within 30 calendar days in a row, has committed a violation of at least one of liquidity ratios, allowing them to drop below the minimum required level set by the NBU regulations (this paragraph is temporarily waived by part VII paragraph 13 for the duration of martial law and four months following its suspension or termination), which are calculated

 - on the daily basis – at least five times

 - every ten days – at least two times

 - every month – once

- systemic submission and/or disclosure of unreliable information or reporting with the purpose of concealing the bank's real financial standing, including its transactions with bank's related parties.

The NBU has the right to classify a bank as a problem bank for other valid reasons specified in its regulations.

A problem bank within 120 days is obliged to bring its activities in line with the requirements of the legislation, including regulations of the NBU.

The NBU is obliged to make a decision on recognizing the bank's activity compliant with the legislation or on classifying the bank as insolvent no later than 120 days from the date of classifying the bank as a problem.

Article 76 of the Law *On Banks and Banking* lists the cases when the NBU is obligated to declare a bank insolvent.

Under the Article, the NBU has the right to declare a bank insolvent in the event that the bank, within the period established in the agreement or prescribed by the laws of Ukraine, has not fulfilled its obligations to the depositors and other creditors due to insufficient funds.

The NBU has the right to make a decision on declaring the bank insolvent in case of the repeated occurrence of grounds on which the bank had been declared a problem bank, if such grounds appeared within 60 days from the date the NBU made the decision to declare the activities of that bank classified as a problem bank to be compliant with the laws. Provisions of this part do not restrict the right or obligation of the NBU to make a decision on declaring the bank a problem or insolvent bank within the mentioned time period on the other grounds set forth in Articles 75 and 76 of the Law *On Banks and Banking*.

The NBU, where there are grounds specified in part one of Article 76 of the Law *On Banks and Banking*, shall decide to declare the problem bank insolvent at any time regardless of the term of the bank's problem status.

Pursuant to Article 77 of the Law *On Banks and Banking*, a bank can be liquidated in the following cases:

- 1) by a decision of its owners
- 2) if the NBU revokes the license on its initiative, or at the request of the DGF.

The NBU has the right to revoke the banking license if:

- 1) it has been established that documents submitted by a bank to obtain a banking license contained false or misleading information
- 2) a bank has not effected any banking transaction within a year since the day it was issued a license
- 3) a repeated breach by a bank of the AML/CFT and the proliferation of weapons of mass destruction laws is detected.

According to Article 39 of the Law *On Households Deposit Guarantee Scheme*, within thirty days since the day of appointment of provisional administration, the Executive Directorate of the DGF shall approve the resolution plan based on the least cost principle. The resolution plan shall be prepared in accordance with the regulations of the DGF. The resolution plan on the basis of the assessment of the financial position and property shall establish actions to resolve an insolvent bank in one of the following ways:

- 1) liquidation of the bank with direct deposit payout to individuals by the DGF in accordance with the procedure established by this Law
- 2) liquidation of the bank with the alienation of its assets and liabilities, in whole or in part, in favor of the assuming bank

3) alienation of assets and liabilities, in whole or in part, of an insolvent bank in favor of the assuming bank with the withdrawal of the insolvent bank's license and its further liquidation

4) incorporation of a bridge bank and sale of the bridge bank to an investor accompanied by a transfer of the insolvent bank's assets and liabilities to the investor, and further liquidation of the insolvent bank

5) sale of the insolvent bank to an investor.

The DGF Executive Directorate is obliged not later than three working days from the date of the bank resolution to decide whether the bank is insolvent, meets/does not meet the criteria established by regulations of DGF, based on an analysis of such bank by the NBU.

If the bank meets these criteria, the DGF Executive Board approves the resolution plan, which states that the least cost way to resolve the bank is the liquidation of the bank with reimbursement by DGF of household deposits, and submits a proposal to the NBU to revoke the banking license and liquidate such bank. In this case, the provisional administration is terminated on the day of receipt of the decision of the NBU on the revocation of the banking license and liquidation of the bank.

The DGF Executive Directorate decides on the liquidation of an insolvent bank if the bank meets one of the criteria established by the regulations of DGF.

In addition, under Article 73 of the Law *On Banks and Banking*, in the case a bank or other persons (entities), whose activities the NBU is entitled to inspect under this Law, violate Ukrainian banking and currency laws, legislation on prevention and counteraction to legalization (laundering) of the proceeds from crime, terrorism financing and financing weapons of mass destruction, the NBU's regulations and the NBU requirements set forth according to Articles 66 and 67 of the Law *On Banks and Banking*, perform risky activities that pose threats to the interests of depositors or other creditors, or if a bank or its qualifying shareholders are subjected by foreign states, intergovernmental unions or international institutions to sanctions, which pose a threat to the depositors or other creditors of the bank and/or banking system stability, or if a bank or other persons (entities) violate the statutory requirements for interaction with consumers when resolving past due debts (ethical conduct requirements), the NBU shall have the right to apply the following corrective measures that are adequate to the violation committed or the seriousness of the threats posed, in particular declaring a bank problem or insolvent, license revocation, and liquidation of a bank.

For reference:

Law of Ukraine No. 2120-IX dated 15 March 2022 amended part VII Final Provisions of the Law of Ukraine On Banks and Banking by adding paragraph 13 suspending due to martial law in Ukraine the following provisions of the Law:

Article 75 part 1 paragraphs 1 and 4 for the duration of martial law and for four months following its suspension or termination

Article 76 part 1 paragraph 2 for the duration of martial law and for six months following its suspension or termination.

According to Article 40 part 1 paragraphs 5, 6, 7-1 of Law *On Financial Services* the NBU within its powers as a regulator of the nonbank financial services market is entitled to apply the following corrective measures:

- suspend top managers of a financial institution and assign provisional administration

- approve a plan to recover the institution's financial stability
- enter into a written agreement with a financial institution, an entity that is not a financial institution, but has the right to provide certain financial services, under which such entity undertakes to pay a certain monetary obligation and/or take measures to eliminate and/or prevention of further violations, improving the financial condition of the financial institution, improving the efficiency of the risk management system, etc.

According to Article 46 part 1 paragraph 2 of the Law *On Financial Services*, if a financial institution fails to pay 10 or more percent of its past-due liabilities within 30 business days, the NBU has the right to assign provisional administration to such financial institutions (except for banks) licensed by the NBU.

Pursuant to Section IX paragraph 74 of the Regulation *On the Application of Corrective Measures by the National Bank of Ukraine in the Area of State Regulation of Activities in the Nonbank Financial Services Markets* (hereinafter – Regulation *On Corrective Measures*), approved by NBU Board Resolution No. 12 dated 1 February 2021, the NBU approves a plan to recover the NBFI's financial stability at the initiative of the nonbank financial institution that:

1) was in breach of minimum capital requirements, mandatory criteria and ratios of capital adequacy and solvency (including conditions of insurer's solvency), liquidity, profitability, asset quality and risk levels, other indicators and requirements that limit the risks of transactions with financial assets set by the laws and/or NBU regulations, and/or capital reserves and other reserve requirements set by Ukrainian laws

2) sent a letter notifying the NBU about its intent to develop and adopt a financial stability recovery plan.

The NBU decides to impose corrective measures in a form of entering into written agreement with an NBFI or an entity that is not a financial institution at the initiative of the NBFI or the entity that is not a financial institution that:

1) violated the requirements of laws and regulations on financial services/consumer rights protection (except for the violations mentioned in Article 41 part 1 and Article 41⁻¹ part 2 of the Law on Financial Services

2) sent a letter notifying the NBU about its intent to enter into a written agreement.

In accordance with Article 9 of the Law *On Credit Unions*, a credit union may be liquidated:

- by decision of its management body

- on the basis of a decision of the authorized body (NBU) on canceling state registration of the credit union due to uncovering the fact that the credit union submitted false information or conducted a misrepresentation at the moment of its state registration that had a significant impact on the respective decision of the NBU. Such a decision of the NBU may be contested by a credit union in court

- on the basis of a court decision, including in the case of operation without a respective license or conducting activities prohibited by the law, in case of credit union's insolvency, in other cases specified by the laws, upon the NBU's request, complaint of the members or creditors of the credit union.

If the decision to liquidate a credit union is taken by its management body, said management body shall immediately notify the NBU about this decision in writing. Then the NBU adds to the respective state register information that the credit union is in the process of winding up. In addition, the notice shall contain suggestions regarding the commission or a person that will take part in winding up the credit union's operation (liquidation commission, liquidator, etc.), procedure, and deadlines.

The NBU shall approve the suggestions provided in the notice or come up with alternative proposals within 5 days.

In line with the Law *On Financial Services*, the NBU has the right to make a decision on canceling the license of a credit union, if:

- the NBU has received an application for canceling the license
- the credit union has taken a decision on termination of the legal entity (except for reincorporation)
- the Unified State Register of Legal Entities, Sole Proprietors, and Nongovernmental Organizations comprises information on the state registration of the credit union's termination
- the credit union has been declared a bankrupt
- the credit union has failed to comply with the NBU's ordinance or decision on eliminating the violations of license terms
- repeated violation of license terms by the credit union. The repeated violation of the license terms means a new violation of at least one of the license terms violated earlier and listed as subject to remedy in the NBU's ordinance or decision to eliminate violations of license terms within two years after the ordinance or decision is issued
- unreliable data have been found in documents submitted by a credit union applying for a license
- a fact (facts) of risky activities by the credit union has been identified, which activities jeopardize the interests of depositors and/or other creditors of this institution (entity). The list of attributes the NBU uses to identify risky activities shall be specified in the NBU regulation and published as prescribed by law
- the credit union has failed to provide any financial services within a year after obtaining the license
- the credit union has systematically violated AML/CFT laws
- the credit union has refused to be inspected by the NBU, in particular: denial of access for the NBU's authorized inspectors, or denial to provide documents and information about the item inspected, denial to provide access to the premises and sites used to provide financial services, or the absence on the first day of the inspection of a person authorized to represent the interests of the credit union for the time of the inspection
- the credit union/managers thereof do not comply with the fit and proper requirements of the Ukrainian law
- two or more violations have been identified of the NBU's regulations related to the implementation and monitoring of the efficiency of personal special economic and other restrictive

measures (sanctions) applied by the National Security and Defense Council of Ukraine under the Law of Ukraine No. 1644-VII *On Sanctions* dated 14 August 2014 (hereinafter – the Law *On Sanctions*)

- the NBU applied corrective measures for violation of the consumer treatment requirements established by law for interaction with consumers in settling overdue debts (requirements for ethical conduct) two or more times during a year.

Recovery and resolution

23. Does Ukraine have a special pre-insolvency, early intervention or resolution system for banks? What are the conditions for this regime to apply? What are the powers of the authorities? If applicable, please provide an overview of the current and planned legislation regarding bank resolution and bank insolvency procedures.

In 2012, the Law *On Household Deposit Guarantee System* significantly expanded the DGF's powers and functions, *inter alia*, to prevent risks of bank insolvency or minimize them for the household deposits guarantee system. To this end, the DGF, in particular: audits the banks for their compliance with the legislation on the household deposits guarantee system; analyses the financial condition of the banks to identify the risks in their activities and estimates the potential costs to the DGF for the removal of insolvent banks from the market and reimbursing depositors for the lost funds; calculates the differentiated fee based on the results of risk assessment; conducts stress testing of the banks participating in the guarantee system to calculate the required basic annual rate of the regular fee and to assess the medium-term financial stability of DGF at least once every three years; communicates to the NBU any information and details revealed by the DGF which indicate that the banks have violated the requirements of the Ukrainian legislation, and any identified risks in their activities.

Consequently, the DGF has built an early response system and monitors the financial condition of all banks on a regular basis. As for the banks, the condition of which has already deteriorated and which have acquired the status of a problem, the DGF has fairly broad powers. For instance, pursuant to the Law, the DGF monitors the bank's transactions at ten-day intervals, collects information for the draft resolution plan and estimates the value of the bank's assets. The DGF pays particular attention to the retirement of assets at a reduced price, the bank's transaction with non-performing assets and related party loans.

The need to fully implement the Directive 2014/59/EU (BRRD) was encouraged. The need to fully implement the Directive 2014/59/EU (BRRD) is confirmed by the consequences of 2014–2016 financial and banking crisis. In that time, out of 102 bankrupt banks (more than half of Ukraine's banking system as of 2014), only 10 banks were resolved in a manner other than by liquidation. The nominal value of the insolvent banks' assets exceeded UAH 500 billion (USD 40 billion); yet, their estimated value was five times lower. There were 4 options the DGF used to remove banks from the market: the sale of the bank as a whole (the largest bank was acquired by the State), the establishment of a transitional bank and its sale to an investor, the sale of assets and liabilities of the bank with its subsequent liquidation, and – the most common – the liquidation of the bank with the guaranteed

reimbursement of deposits. Only 9% of bankrupt banks have been successfully resolved. The positive economic effect in these cases amounted to UAH 1 billion.

The main reasons for unsuccessful resolution were the extremely low quality of assets or no liquid assets at all, as a result of which investors refused to participate or their bids were much lower than the value of assets estimated by the DGF. The banks were transferred under the DGF's management too late and there was no time left for proper resolution including sufficient exposure of the bank and the bank's assets in the market, and due diligence by the investors.

The DGF managed to get bids from investors for 11 banks, however, the DGF rejected them because of their inconsistency with the market value of assets estimated by the DGF. The DGF liquidated these banks, but the liquidation of 8 banks resulted in less proceeds from the sale of assets than was initially offered by the investors. This was due to the fact that assets continued to lose value throughout the liquidation process.

Taking into account the discounting of cash flows and the costs of the liquidation procedure as such, the results were 23% worse than those of potential resolution. This means that resolution is always better than liquidation. However, an effective resolution requires high-quality assets of the bank and resorting to action before the bank becomes insolvent. Therefore, the DGF has implemented an early response system that is constantly being improved.

In 2021, the DGF continued taking measures to develop and implement the early response system, in particular, took a number of measures aimed at implementing the provisions of Directive 2014/49/EU (version of 16.04.2014), as well as the BRRD, in the DGF's activities for the purpose of introduction of new recovery mechanisms, early response systems for early preparation for a possible resolution, including MREL at the appropriate stage, and the removal of banks from the market; and ensured effective cooperation with the consultants from WB, USAID, US TREASURY and FDIC on preparing a draft law to improve the removal of banks from the market in line with the BRRD principles.

In particular, at the end of 2021, a number of meetings were held with a group of financial sector specialists of the World Bank. The DGF began working with the World Bank experts on the implementation of BRRD standards in Ukrainian legislation and the development of a draft law to improve the bank resolution regime. A number of consultations were also held on issues of its practical implementation within the framework of the law drafting process.

Pursuant to the international standards and the EU *acquis*, Article 14(1) of the Law *On Household Deposit Guarantee System* expanded and clarified the standards for reporting by banks and the National Bank of Ukraine. Thus, in order to deepen and make automatic the information analysis for high-quality monitoring of the on-balance and off-balance sheet data of Ukrainian banks, as well as to develop draft resolution plans, the set of information indicators – included in the report – on bank contracts was expanded by Decision of the DGF Executive Directorate No. 1137 dated 11 November 2021 and registered by the Ministry of Justice of Ukraine as No. 1556/37178 on 01 December 2021) by amending the Decision of the DGF Executive Directorate *On Approval of the Rules for Reporting to the Deposit Guarantee Fund, and Repealing Decisions of the Executive Directorate of the Deposits Guarantee Fund* No. 4 and No. 5 dated 09.07.2012 No. 1158 and registered by the Ministry of Justice of Ukraine as No. 831/35114 on 31 August 2020.

The legislation currently in force provides for the following methods of removing failing banks from the market, which are also envisaged by the BRRD as the resolving insolvency measures, namely:

- 1) liquidation of the bank and compensation of the household deposits by the DGF according to the procedure established by law
- 2) liquidation of the bank and alienation, in the process of such liquidation, of all or part of its assets and liabilities to the receiving bank
- 3) alienation of all or part of the assets and liabilities of the insolvent bank to the receiving bank, and withdrawal from the insolvent bank of its banking license followed by its liquidation
- 4) creation of and sale to an investor of a transitional bank, transfer of the assets and liabilities of the insolvent bank to such transitional bank, and further liquidation of the insolvent bank
- 5) sale of the insolvent bank to an investor.

In accordance with the provisions of Article 76 of the Law *On Banks and Banking*, the NBU shall be obliged to declare a bank a problem bank if that bank meets at least one of the following criteria:

- The bank has failed to align its activities with the applicable laws, including NBU regulations, after it was declared a problem bank, but not later than 120 after the declaration date.
- The adequacy ratio of the regulatory capital, and/or common equity adequacy ratio has decreased by 50 and more percent from the minimum level set by the NBU regulations.
- After being declared a problem bank, the bank has performed transactions (except for interest rate accrual on deposits, payment to bank clients of salaries, alimony, pensions, scholarship, other social and government transfers) and executed (re-executed) agreements, whereby the liabilities before individuals within the guaranteed redemption amount increase owing to reduced liabilities before the individuals exceeding the guaranteed redemption amount and/or liabilities before individuals not to be redeemed by the DGF, and/or liabilities before legal entities.
- The bank declared as a problem bank has failed to fulfill the orders or decisions of the NBU (including those related to applying corrective measures/sanctions) and/or requirements of the NBU to eliminate violations of the banking laws, laws regulating the activities in the payment market, and the NBU regulations within the term specified by the NBU.

The NBU shall also have the right to declare a bank insolvent in the event that the bank, within the period established in the agreement or prescribed by the laws of Ukraine, has not fulfilled its obligations to the depositors and other creditors due to insufficient funds.

Pursuant to Article 76 of the Law *On Banks and Banking*, the NBU shall not supervise banks placed under a provisional administration.

Pursuant to Article 34 of the Law *On Household Deposit Guarantee System*, the DGF starts the removal of the insolvent bank from the market not later than the next working day after the official receipt of the decision of the NBU on the classification of the bank in question as insolvent. The DGF Executive Directorate designates an authorized DGF employee (several authorized employees) – to

whom the DGF delegates all or part of its temporary administering powers – from among the DGF staff not later than the next working day after the official receipt of the decision of the NBU to classify the bank as insolvent. The authorized DGF employee must meet the requirements set by the DGF. The duration of provisional administration does not exceed one month. If the insolvent bank is removed from the market in the manner provided for in paragraphs 3–5 of Article 39(2) of Law *On Household Deposit Guarantee System*, the period of provisional administration may be extended for up to one month. If the insolvent bank is removed from the market in the manner provided for in paragraphs 1 and 2 of Article 39(2) of the Law *On Household Deposit Guarantee System*, the period of provisional administration may be extended by five days with termination not later than the date of receipt of the NBU’s decision to withdraw the banking license and liquidate the bank. The provisional administration terminates after the resolution plan is implemented or in other cases by the decision of the DGF’s Executive Directorate.

Pursuant to Article 44(4) and (5) of the Law *On Household Deposit Guarantee System*, the DGF initiates the bank liquidation not later than the next working day after the official receipt of the NBU’s decision to withdraw the banking license and liquidate the bank, unless the liquidation is initiated by the bank’s owners.

The DGF, from the date of initiation of the administrative liquidation procedure, within 3 years (within 5 years for systemically important banks), shall ensure the implementation of measures to manage the bank’s property (assets) and satisfy the creditors’ claims. DGF has the right to extend the period of management of property (assets) of the bank and of the creditors’ claims satisfaction if there are circumstances that make the sale of property (assets) of the bank and satisfaction of the creditors’ claims impossible for the duration of such circumstances. The grounds for extending such a period by the DGF are the existence of circumstances that make it impossible to sell the property (assets) of the bank and satisfy the creditors’ claims.

Pursuant to Article 50(1) and (4) of the Law *On Household Deposit Guarantee System*, on the date of the bank liquidation initiation, the DGF starts the inventory checking and evaluates the bank’s assets to form the liquidation estate of the bank. The inventory of the bank’s property and the formation of liquidation estate are completed within six months from the date of the decision to liquidate the bank and withdraw its banking license. The results of inventory and liquidation estate formation are reflected in the act that is subject to approval by the DGF’s Executive Directorate.

Based on the results of the bank liquidation, the DGF prepares the liquidation balance sheet and the report that are subject to approval by the DGF’s Executive Directorate. The liquidation procedure is considered completed from the moment the liquidation balance sheet is approved, and the bank is considered to be liquidated from the moment the termination entry is introduced in the Unified State Register of Legal Entities, Individual Entrepreneurs and Public Organisations.

Thus, as of 1 January 2022, the DGF is responsible for the management of 48 banks, 27 of which undergo liquidation procedure carried out by the DGF.

The total nominal value of assets (revaluation not included) accounted for on the balance sheets of the above-mentioned banks is UAH 43.651 billion, while the estimated value is UAH 7.836 billion (Table 1).

Table 1 and Figure 1 show the distribution of assets of the insolvent banks disaggregated by their main types.

Table 1. Distribution of the insolvent banks’ assets by their main types

Name	Nominal value, UAH mln	Share , %
Immediately available funds	1,732.30	3.97
Inter-bank deposits, incl. funds on correspondent accounts	60.88	0.14
Securities, participation interests	107.22	0.25
Credit portfolio	36,767.62	84.23
Accounts receivable	3,005.44	6.89
Real estate	1,545.44	3.54
Non-financial and intangible assets: sales assets, fixed assets, inventories, etc.	240.64	0.55
Other assets	191.00	0.44
Total	43,650.54	100
plus (off-balance):		
Written-off debts for utilities (off-balance)	545.50	X
Written-off accounts receivable (off-balance)	844.31	X

As of 1 January 2022, the total book value of assets belonging to 43 banks managed by the DGF, for which the DGF's Executive Directorate has approved the register of accepted creditors' claims, was UAH 43.24 billion, while their estimated value is UAH 7.63 billion or 17.64%, which, of course, is not enough to satisfy all claims of the banks' creditors.

The key legislative acts that provide for early response, resolution measures of failing banks and liquidation of banks in Ukraine are:

Law On Banks and Banking

Law On Household Deposit Guarantee System

Regulation On Removal of an Insolvent Bank from the Market approved by Decision of the DGF No. 2 dated 05 July 2012

Rules for Reporting to the Deposit Guarantee Fund, approved by Decision of the DGF No. 1158 dated 18 June 2020.

As part of the implementation of the EU acquis in Ukraine in accordance with the EU-Ukraine Association Agreement, the NBU jointly with the World Bank and the DGF set up a working group to implement measures to improve the procedures for bank recovery and resolution. The working group prepared a White paper⁷ describing the main aspects of the future mechanism for resumption

⁷ Recommendations on key lines for reforms aimed at recovering solvency and resolving insolvency of banks in Ukraine.

of bank activities and resolution of bank insolvency. Moreover, a draft Law has been developed for bank resolution in line with Directive 2014/59/EU (BRRD).

Regarding Credit Unions

Draft Law No. 5125 *On Credit Unions* dated 22 February 2021 is pending a repeat second reading in the Verkhovna Rada of Ukraine.

The draft Law:

- authorizes the NBU to impose on credit unions the following corrective and early intervention measures:

- activation of the business recovery plan of the credit union
- increasing the frequency of financial and other reporting
- introducing restrictions on profits distribution and other types of capital allocation
- adjustment or revision of the credit union's business plan, introducing higher requirements to the internal controls system of the credit union temporary ban on raising new deposits from the credit union members, on lending to credit union members, etc.

- improves the procedure for the credit union's exiting the market, in particular:

- Voluntary reorganization (merger, acquisition) or liquidation of the credit union is possible only upon the NBU's permit in line with the approved reorganization or liquidation plan of the credit union.

- Voluntary exit of the credit union from the market is performed in accordance with the approved plan explicitly stating the terms, conditions, and the actions of the management body of the credit union for completion of its current obligations and termination of its activities.

- Forced liquidation of the credit union is done through canceling the credit union's license by the NBU, if the credit union is declared insolvent or for other reasons, and applying to the court to liquidate the credit union.

- supplements the Code of Insolvency Proceedings of Ukraine with the provisions covering the specifics of credit union bankruptcy.

24. Has a national resolution authority been set up? If not, is there an intention to create such an authority?

The Law *On Household Deposit Guarantee System* determines the functions of the Deposit Guarantee Fund (hereinafter referred to as the DGF), in particular, removal of the insolvent banks from the market and liquidation of banks in cases determined by law.

To this end, upon the bank's putting on the list of troubled banks, the DGF has the right to conduct an unscheduled audit of the bank in question to collect information for further drafting of a resolution plan, if such a troubled bank is included in the list of insolvent banks, including to determine the value of the troubled bank's assets.

The DGF assesses the troubled bank's assets, has access to all its transactions and databases, including the right to obtain copies of documents and databases, and receives information and reports on a regular basis.

The DGF, and employees designated by the DGF, have the right to request in writing from the bank's senior management staff to eliminate violations of the legislation on the natural persons' deposits guarantee system, ensure compliance with the legal and normative acts of the DGF, and provide written explanations on the compliance with the legislation on the natural persons' deposits guarantee system and the legal and normative acts of the DGF, as well as to request information about all and any transactions of the bank.

The DGF, and employees designated by the DGF, have the right to receive information from the clients, depositors and other creditors of the bank to ensure the implementation of functions and powers assigned to the DGF.

The DGF, no later than the next working day after receiving the decision of the National Bank of Ukraine to classify the bank as a problem bank, designates an employee(s) responsible for analyzing the troubled bank's compliance with the requirements of the DGF concerning the establishment and maintenance of the depositors database and for monitoring the bank's active transactions.

In case the troubled bank's non-compliance of the DGF's requirements concerning the establishment and maintenance of the depositors database is detected, the bank is obliged to eliminate the detected violations within the period set by the DGF, but not later than 20 days (or 30 days for banks whose depositors database contains information on more than 500,000 invoices) from the date of signing of the relevant report (act) of detected violations.

The DGF analyses the compliance by the DGF member with the requirements set for the establishment and maintenance of the depositors database, and monitors active transactions of banks classified as troubled within the whole period of such bank's staying in the troubled category subject to the procedure determined by the DGF.

The bank classified as troubled is obliged to ensure the access of the DGF's designated employees to information (documents, files) to carry out the actions provided in this article.

Access to information (documents, files) is provided to the designated employees of the DGF on the basis of a copy of the DGF's relevant administrative order on the appointment of employees in question. If the troubled bank fails to meet the requirements of the DGF, including those related to bringing the depositors database in line with the legislation, the bank's senior management staff is administratively and/or criminally liable for such failure.

In case the NBU classifies the troubled bank as insolvent, the DGF initiates the procedure for removing the insolvent bank from the market and drafts its resolution plan, as explained in answer to Question 23 hereof. However, the 'troubled stage' is not necessarily required to be recognized as insolvent in the future: any bank can be recognized as insolvent immediately without being classified as troubled.

The DGF, together with the NBU and the World Bank advisers, are currently finalizing the amendments to legislation to fully implement the Directive 2014/59/EU (BRRD).

25. Has the Deposit Guarantee Scheme (DGS), if any, been used in the past in order to facilitate proceedings around the failure of a bank?

Since 2012, the DGF has removed 102 banks from the market., the DGF attracted loans from the NBU and the Ministry of Finance of Ukraine on market terms to repay the covered deposits exceeding UAH 90 billion during 2014–2017 crisis. In 2019, the DGF repaid the loans to the National Bank of Ukraine, which total amount was over UAH 20 billion. The Government loans (granted by the Ministry of Finance of Ukraine) were received in exchange for the DGF's promissory notes in the amount of UAH 59.56 billion at the interest rates of 9.99% to 12.5% with maturity dates from 2025 to 2031.

In 2018, in order to reduce the interest costs, the DGF initiated granting it permission to early repay its promissory notes owned by the Ministry of Finance of Ukraine. After receiving the said permission, the DGF began to gradually accumulate the required funds and repay its debts to the state. In 2021, the DGF's debt to the state accounted for almost 24% of the DGF's total expenditures. The DGF spent UAH 2,400.0 million to repay the nominal value of promissory notes and UAH 1,671.8 million to pay interest on them.

It should be noted that as of 31 December 2021, the DGF spent a total of UAH 21,722.7 million to repay its debt obligations to the state, including the nominal value of promissory notes totaling UAH 13,817.6 million and interest on promissory notes of UAH 7,905.1 million.

At the end of 2021, the balance of its debt to the state consisted of promissory notes in the amount of UAH 45,741 million, in respect of which the interest of UAH 62,542.7 million would be accrued on the maturity date.

In 2020, the Financial Stability Council approved the DGF's Debt Restructuring Plan, which had to be fully implemented in 2021.

The Verkhovna Rada of Ukraine passed the Law of Ukraine No. 2180-IX *On Amendments to Certain Laws of Ukraine Concerning Ensuring the Stability of the Households Deposit Guarantee Scheme*, which entered into force on 13 April 2022 with respect to the DGF's debt restructuring. Pursuant to that Law, the DGF's obligations under promissory notes issued by it in 2015 and 2016, and held by the Ministry of Finance of Ukraine, were terminated. In turn, the DGF and the Ministry of Finance of Ukraine concluded an agreement establishing a procedure for the transfer of funds to the state budget under the terms and conditions provided by the Law.

This allows for increasing the financial stability of the deposits guarantee system and implementing a number of steps aimed at strengthening confidence in banks and strengthening the financial stability of the state in general and in particular during martial law.

Ukraine does not have resolution fund, but the DGF's funds may be used to finance the bank resolution, but this financing can't exceed the amount of covered deposits. For example, the DGF has implemented five P&A agreements, two of which were fulfilled with the financial support to the receiving banks by paying them the difference between the asset value of the insolvent bank and the covered deposits.

As of 1 April 2022, the DGF has paid a total of UAH 95.7 billion pay-outs to depositors.

II. INSURANCE AND OCCUPATIONAL PENSIONS

A. General questions

26. Briefly describe the main features of the insurance market in terms of its relative importance and recent developments (with data including the most recent trends and by share in the financial sector), types of insurance, and ownership structure of insurance operations.

Starting from 1 July 2020, the NBU has become the regulator of the market for nonbank financial services, which comprises insurance companies, leasing companies, factoring companies, credit unions, pawnshops, and other financial institutions (SPLIT reform).

As of 30 June 2020, the State Register of Financial Institutions comprised 215 insurers (nonlife, life), with ten of them located in the territories under JFO and in Crimea. Ukraine has neither state-owned insurance undertakings nor nonresident insurer branches.

As of 1 January 2022, the State Register of Financial Institutions (SRFI) comprised **155 insurers**, which number **reduced by 55 companies** since the year start:

11 insurers were excluded from SRFI upon their requests

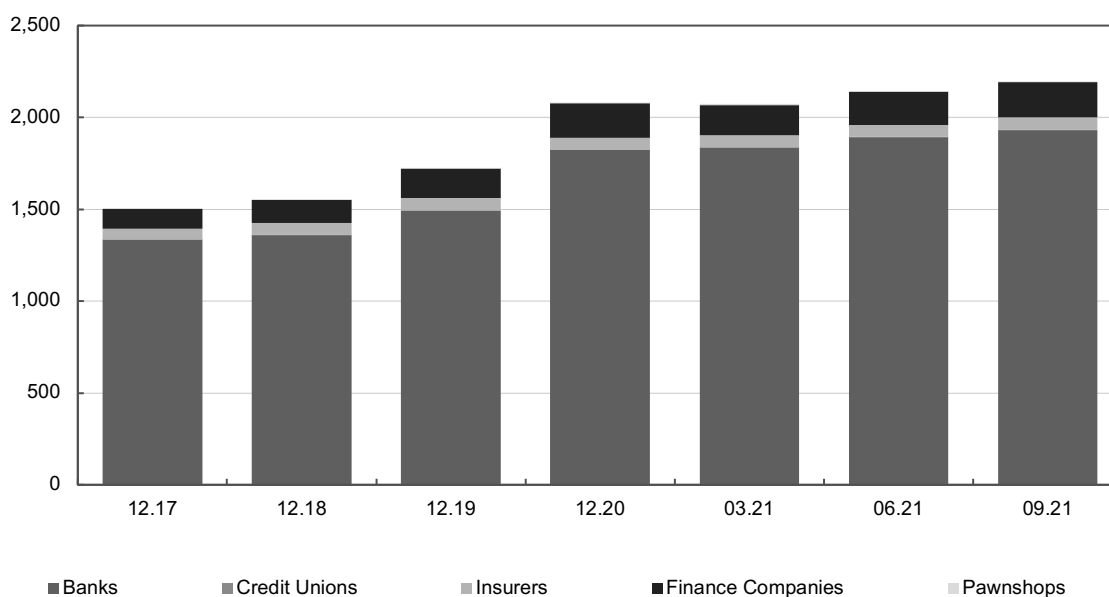
44 insurers were excluded upon the request of the NBU after all their licenses were canceled

Insurance Market Structure in 2021

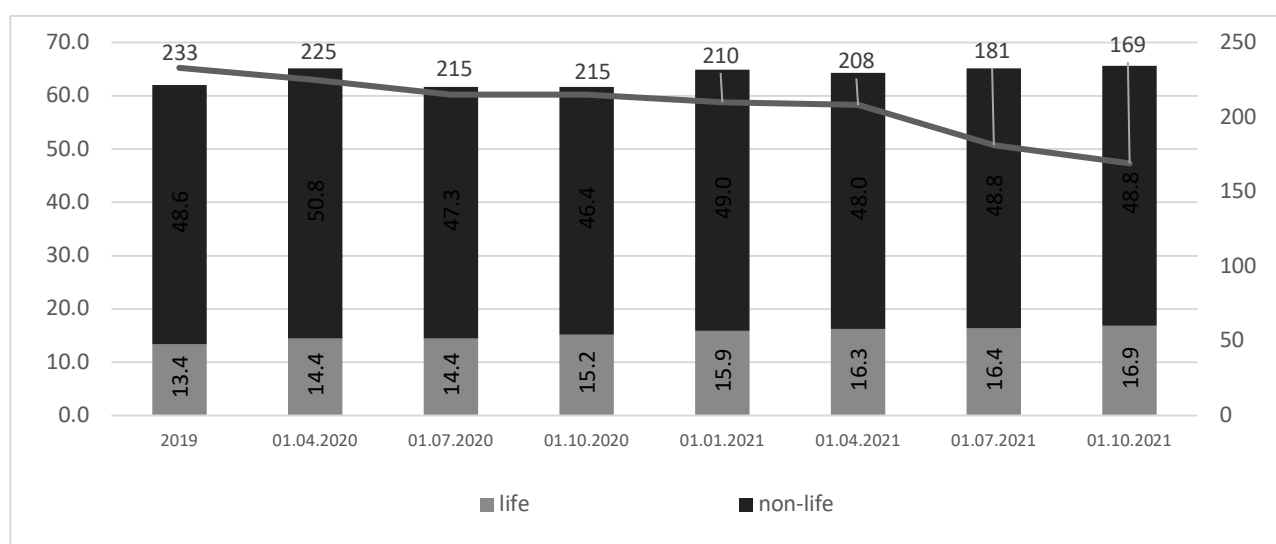
Indicator	Quantity	
Quantity of registered insurers as of 31 December 2021	155	
	Nonlife	Life
	142	13
Registration		
Quantity of insurers added to the state register	0	
Quantity of insurers excluded from the state register	55	

Insurers quit the market both on a voluntary basis and by way of corrective measures applied by the NBU due to insurers' noncompliance with required financial ratios. This trend may continue, as a large number of companies are not active in the market or fail to comply with prudential requirements. Currently, the market witnesses a gradual withdrawal of inactive participants.

Assets of financial institutions subject to the NBU's regulation, UAH billions



Asset volumes (life and non-life), UAH billions, and the number of Insurers



As of 1 October 2021 (the last reporting date, when data were reviewed and aggregated), the total assets of insurers, as compared with 1 July 2021 and with the year start, are stable and almost flat (+1.2% and +0.8% respectively) and made UAH 65.7 billion.

Over the recent 12 months, the insurance market has shown a moderate increase in assets (+6.5%) and more than 2 times faster growth of eligible assets (+15.1%) and insurance reserves (+20.3%). However, as the nonlife market has grown significantly, the growth of eligible assets and insurance reserves was largely driven by expanded activities in this segment (eligible assets +16.4%; insurance reserves +24.8%).

According to the reports for 9 months of 2021, among licensed insurers, 90% meet the solvency requirements and financial ratios. Since the launch of SPLIT reform, the number of companies in violation of the solvency and capital adequacy ratios has decreased by almost four times, while shortages of eligible assets have declined sevenfold.

Indicator	31.12.2016	31.12.2017	31.12.2018	31.12.2019	30.06.2020 SPLIT	31.12. 2020	30.09. 2021*
Insurers' assets (UAH billions)	56.0	57.4	63.5	63.9	61.9	64.9	65.5
<i>nonlife</i>	45.1	45.5	51.4	50.5	47.5	49.0	48.7
<i>life</i>	10.9	11.9	12.1	13.4	14.4	15.9	16.8
Insurance premiums (UAH billions)	35.2	43.4	49.4	53.0	21.0	45.2	38.1
<i>nonlife</i>	32.4	40.5	45.4	48.4	18.7	40.1	33.9
<i>life</i>	2.7	2.9	3.9	4.6	2.3	5.1	4.2
Insurance reserves (UAH billions)	20.9	22.9	26.9	29.6	31.4	34.1	35.1
<i>nonlife</i>	13.1	14.5	17.6	19.3	20.1	21.5	21.6
<i>life</i>	7.8	8.4	9.3	10.3	11.3	12.6	13.5

Insurers report that insurance premiums tend to grow, and the growth rates have surged (6 times): from + 5.5% yoy (9 months 2020/9 months 2019) to + 31% yoy (9 months 2021/9 months 2020)

growth in the nonlife segment made +33% yoy as of 9 months of 2021

growth in the life segment made +17% yoy as of 9 months of 2021

In 2021, insurance premiums of operating insurers grew faster quarter-over-quarter (+16% and +6%) than overall figures across the market, owing to premiums by all types of counterparties, including due to redistribution of the market after some insurers quit the market.

Insurance payouts by operating insurers have been growing since 1 October 2020 annually (+35%) and quarterly (+12%; +4%; +14%) owing to the growth of payouts to individuals and under reinsurance contracts.

Gross premiums on nonlife insurance increased somewhat after having dropped in 2020 due to the coronavirus crisis, as the number of insolvent insurers decreased. Also, due to the exit of insurance companies from the market, especially in the MTPL segment, there was a redistribution of the market

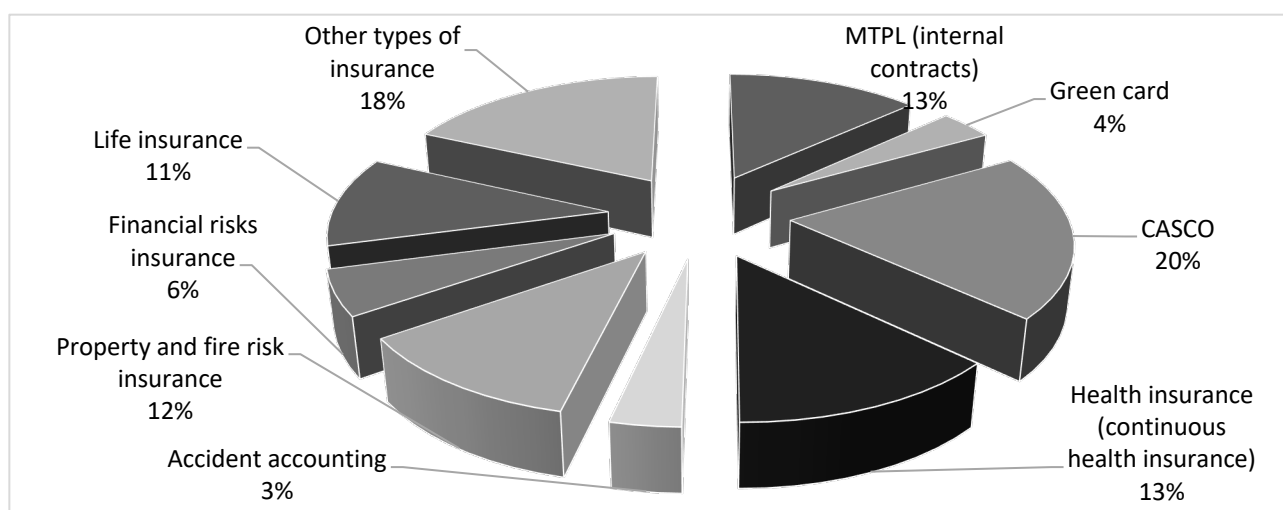
between insurers. The loss ratio of voluntary insurance has been growing for the last few years. As of 1 October 2021, it was 43% – approaching the loss ratio of compulsory insurance, which was 46%. Domestic reinsurance decreased by 21% in 2021.

The operational efficiency of nonlife insurers remained low. Combined ratio (plus the ratio of operating expenses to premiums, adjusted for unearned premium reserves) of insurers was close to 90% during the year. This was due to large expenses on settling insured events. Insurers remained profit-making in 2021, with their profits hitting a six-year high. Return on assets and return on capital grew in 2021, but did not reach the previous year's level.

Despite the decrease in the number of insurers, all major indicators demonstrated an increase.

Supervisory function and control over compliance with the law by insurance companies is performed to improve the professionalism of market players, their business culture and aims to achieve a high level of financial services and reliability of financial institutions at the insurance market, expanding protection mechanisms for all consumers of financial services.

Insurance portfolio by types of insurance over 9 months of 2021



Other types of insurance 18%	MTPL (internal contracts) 13%
Life insurance 11%	Green card (4%)
Financial risks insurance 6%	CASCO 20%
Property and fire risk insurance 12%	Health insurance (continuous health insurance) 13%
Accident accounting 3%	

In 9 months of 2021, 37% of insurance premiums traditionally fell on car insurance (MTPL, Green Card, CASCO).

Personal types of insurance (voluntary health insurance, accident insurance, life insurance) accounted for 27%.

Concentration in the insurance market over 9 months of 2021: no changes as compared with 2020 and H1 2021

Concentration	Market nonlife (premiums)	Market nonlife, individuals	Life market (insurance reserves)
TOP 3	19.9%	23.6%	75.6%
TOP 5	29.7%	34.5%	90.7%
TOP 10	47.7%	56.2%	99.2%
TOP 20	68.6%	78.7%	100%
TOP 50	92.1%	96.2%	-
TOP 100	99.5%	100%	-
Market total	100%	100%	100%

Concentration indicators demonstrates that

- ✓ 90% of insurance premiums for 9 months of 2021 are concentrated at 60 insurers (50 nonlife insurers and 10 life ones).
- ✓ Over 56% of nonlife insurance premiums from individuals are concentrated at 10 insurers.
- ✓ Traditionally small, the life insurance market contracted by 3 participants in Q3-Q4 2021 and became even more concentrated: one third of market players (5 insurers) accounted for 90.7% of life insurance reserves.
- ✓ The distribution of market concentration in 2021 was quite stable and underwent no significant changes (fluctuations).

The above information proves that penetration of insurance in Ukraine is much lower than in other European countries. One more significant attribute of the domestic financial sector is the low share of life insurance. Premiums on life insurance agreements account around 11% of total premiums, which is only 0.1% of GDP.

However, the increase of the insurance share in GDP is even enshrined in the NBU's strategies and the White Papers.

Improving regulations on consumer rights protection and control over market conduct, ensuring transparency in the market and compliance with solvency requirements will help to increase the share of insurance in GDP.

The NBU tends to build a strong insurance sector, able to perform its main function - to protect individuals and businesses from possible losses caused by insurance events.

For this purpose, it is necessary to form a solvent, stable, competitive insurance market with adequate protection of consumers rights of insurance services. Such a market is able to support Ukraine's economic growth without compromising financial stability.

The NBU expects that introduction of a new model for the regulation and supervision of the insurance market will ensure:

- higher capitalization, liquidity and sustainability of insurance undertakings
- diversification of insurance products and higher competition in the insurance services market
- high standards of consumer rights protection for consumers of insurance services and policyholders
- transparency of the insurance market and its attractiveness for investors.

Relevant changes and the NBU's measures will improve the consumer confidence in the insurance market and its deeper penetration into the financial services market.

In 2021, the NBU intensified its work on new legislation to create a competitive and resilient financial services market and build an effective model of financial sector regulation, taking into account the objectives of the Strategy of Ukrainian Financial Sector Development until 2025 and the Association Agreement between Ukraine and the European Union.

Indicators incorporated in NBU Strategy

Target	as of the end of 2020	as of the end of 2024
Insurance penetration, % of GDP	1.5%	At least 2%
Proportion of life insurance in the total received amount of net insurance premiums, %	12.2%	No less than 20%

27. What is the situation with regard to right of establishment and cross-border supplies of services in Ukraine for EU insurance companies? Which conditions apply?

Pursuant to Article 2 of the Law *On Insurance*, insurers authorized to conduct insurance activities in Ukraine include standing representative offices – registered by the Authorized Body in line with the Law *On Insurance* and the Ukrainian legislation – that are subsidiaries of foreign insurance companies duly licensed to provide insurance services (hereafter, subsidiaries of nonresident insurers).

Nonresident insurers are institutions incorporated and licensed to provide insurance services in line with laws of foreign countries in which they were registered.

The provisions of the Law *On Insurance* that apply to resident insurers also apply to subsidiaries of nonresident insurers with some peculiarities provided by the law.

Nonresident insurers are forbidden to conduct any insurance activities in Ukraine, other than:

only insurance of the risks related to sea transportation, commercial aviation, and space rocket launches and freight (including satellites) provided that the insured item is a property interest associated with transported goods and/or the transportation vehicle used to transport them, and/or any liabilities arising from such transportation of goods

reinsurance

insurance intermediation, such as brokerage and agent transactions related to reinsurance and only the insurance of the risks related to sea transportation, commercial aviation, and space rocket launches and freight (including satellites) provided that the insured item is a property interest associated with transported goods and/or the transportation vehicle used to transport them, and/or any liabilities arising from such transportation of goods

auxiliary insurance services, such as consulting services, actuarial risk assessment, and claim settlement.

The procedure for registering, licensing, supervising, applying corrective measures, and liquidating subsidiaries of nonresident insurers is set forth in the Law *On Insurance* and regulations of the Authorized Body.

A nonresident insurer has the right to open a subsidiary in Ukraine, provided that:

1) The state in which the nonresident insurer was registered is other than the states that do not take part in the international cooperation on prevention and counteraction to legalization (laundering) of proceeds from crime and terrorism financing, and also cooperates with the Financial Action Task Force (FATF).

2) The authorized body is supervising insurance companies of the country in which the nonresident insurer was registered and the Authorized Body has signed a memorandum (an agreement) for exchange of information.

3) The state supervision over insurance activities is performed according to the legislation of the nonresident insurer's country.

4) An international agreement on prevention of tax avoidance and double taxation is concluded between Ukraine and the country in which the nonresident insurer was registered.

5) The nonresident insurer is located in the countries or territories that, according to the decision of the UN Organisation for Economic Co-operation and Development, do not have an offshore status, or in other countries if a non-offshore status of that insurer is confirmed by the opinion of a respective commercial and economic mission.

6) Financial resilience rating of the nonresident insurer complies with the requirements established by the Authorized Body.

7) The minimum amount of security deposit on accounts of the authorized resident banks – which have a license to perform transactions in the entire territory of Ukraine and, as of the moment of such deposit placement, were not under the procedure of resolution, financial recovery, or bankruptcy – as

of the moment of registering a subsidiary was not less than the minimum amount of the authorized capital set for resident insurers by Article 30 of the Law *On Insurance*.

The CMU and the NBU jointly decide on the regime for the security deposit account.

The Authorized Body set the requirements for the security deposit.

8) The nonresident insurer has provided in writing its irrevocable commitment to unconditional fulfillment of the obligations arising from its subsidiary's activities in Ukraine.

9) Ukrainian insurers are authorized to open their subsidiaries in the foreign country in which the nonresident insurer was registered and is operating.

The Authorized Body registers subsidiaries of nonresident insurers.

Activities conducted by a subsidiary of a nonresident insurer must comply with the requirements set by this Law and/or regulations of the Authorized Body.

A nonresident insurer is authorized to perform the insurance activities in Ukraine, provided that:

1) The state in which the nonresident insurer was registered is a member of the World Trade Organization, is other than the states that do not take part in the international cooperation on prevention and counteraction to legalization (laundering) of proceeds from crime and terrorism financing, and also cooperates with the Financial Action Task Force (FATF). For reinsurance, the nonresident insurer does not need to be registered in a country that is a member of the World Trade Organization.

2) The authorized body supervising the insurance companies of the country where a nonresident insurer is registered and the Authorized Body of Ukraine have signed a Memorandum (entered into an Agreement) for exchange of information

3) The state supervision over insurance activities is performed according to the legislation of the nonresident insurer country

4) An international agreement on prevention of tax avoidance and double taxation is concluded between Ukraine and the country in which the nonresident insurer was registered.

5) The state in which the nonresident insurer was registered is not included into the list of offshore zones established in the Ukrainian legislation.

6) The nonresident insurer has a respective license to provide insurance services according to the laws of the country in which it was registered.

7) The financial resilience rating of the nonresident insurer complies with the requirements established by the Authorized Body.

Requirements for operations of subsidiaries of nonresident insurers are set by Chapter 12 of the *Regulation On Licensing and Registration of Financial Services Providers and Requirements for Providing Financial Services* approved by NBU Board Resolution No. 153 dated 24 December 2021 (hereinafter – Regulation No. 153).

In particular, in order to operate in Ukraine, a subsidiary of a nonresident insurer must be registered in the Register of Nonresident Insurer Subsidiaries and hold a license received in accordance with Section XII, Chapter 69 of Regulation No. 153.

Requirements set by Regulation No. 153 for insurers also apply to nonresident insurers (except for the cases when requirements are set specifically for subsidiaries of nonresident insurers) taking into account the peculiarities established by Article 2 parts one, three, and eleven – thirteen, Article 30 part one, Article 31 part twenty one, and Article 43 part nine of the Law *On Insurance*.

A subsidiary of a nonresident insurer must have a security deposit on accounts of authorized resident banks in the amount not less than the equivalent of EUR 1 million for nonlife insurers. If the subsidiary plans to engage in life insurance, the security deposit must not be less than the equivalent of EUR 10 million at the official NBU exchange rate as of the date of filing the application.

The security deposit can be made in monetary form only and must be paid in full.

The security deposit can be made in hryvnia and/or foreign currencies at the official exchange rate of the hryvnia to foreign currencies set by the NBU on the day the deposit is placed.

The security deposit cannot be made with funds received as a debt or loan, against a collateral, or with funds encumbered in any other way.

The security deposit and accrued interest are accounted as own funds of the subsidiary of a nonresident insurer and is held on a separate bank account.

Property rights to the security deposit must not be used as a collateral and may be used only for the purposes envisaged by Ukrainian laws.

If a subsidiary of a nonresident insurer needs to make payments at the expense of the security deposit, it must submit information about its financial standing and the justification of such payments to the NBU no later than 10 days before the payments are made.

A nonresident insurer withdraws the security deposit if its subsidiary is liquidated after all claims are settled under insurance agreements concluded in Ukraine.

The financial resilience rating of a nonresident insurer must not be lower than highly resilient according to classifications of the following international rating agencies:

- 1) A.M.Best (USA) – “B+”
- 2) Moody’s Investors Service (USA) – “Baa”
- 3) Standard & Poor’s (USA) – “BBB”
- 4) Fitch Ratings (UK) – “BBB”.

The chief executive officer, the chief accountant, and the key person of a subsidiary of a nonresident insurer must comply with requirements for business reputation and fitness and propriety determined by this Regulation.

The NBU approves persons appointed for the positions of the chief executive officer and chief accountant of the subsidiary of a nonresident insurer according to the procedure specified in Section IX of Regulation No. 153.

Pursuant to Article 3 of the Law of Ukraine No. 1909-IX *On Insurance*⁸ dated 18 November 2021, which will take effect on 1 January 2024 (hereinafter – the (new) Law *On Insurance*), insurance activities may be conducted in Ukraine only by:

⁸ <https://zakon.rada.gov.ua/laws/show/1909-20#Text>

- 1) resident insurers that have obtained a license as required by the (new) Law *On Insurance*
- 2) subsidiaries of nonresident insurers that have obtained a license as required by the (new) Law *On Insurance*
- 3) nonresident insurers, taking into account provisions of Article 6 of the (new) Law *On Insurance*.

The (new) Law *On Insurance* regulating the operation of insurers (direct insurance) also applies to the branches of nonresident insurers and reinsurers (reinsurance), except for cases explicitly specified in this Law.

Article 6 of the (new) Law *On Insurance* stipulates that a nonresident insurer has the right to perform the following insurance activities in Ukraine without receiving the insurance license from the Regulator under this Law:

- 1) insurance under insurance classes 5 (Aircraft), 6 (Ships (sea, lake and river and canal vessels), 7 (Goods in transit), 11 (Aircraft liability), and 12 (Liability for ships)
- 2) reinsurance.

A nonresident insurer is authorized to perform insurance activities in Ukraine, provided that:

1) The country in which the nonresident insurer was registered is a member of the World Trade Organization. This requirement does not apply to nonresident insurers providing reinsurance services in Ukraine.

2) The country in which the nonresident insurer was registered has received no warnings from international bodies with regard to the country's compliance with the international standards of preventing and combating legalization (laundering) of proceeds from crime, terrorism financing, and financing proliferation of weapons of mass destruction.

3) Laws of the country of registration of the nonresident insurer envisages state regulation and supervision of insurance activities.

4) An international agreement on prevention of tax avoidance and double taxation is concluded between Ukraine and the state where a nonresident insurer is registered

5) The state where a nonresident insurer is registered is not included into the list of offshore zones established in the Ukrainian legislation

6) The nonresident insurer has a respective permit to provide insurance (reinsurance) services according to the laws of the country in which it was registered.

7) The financial resilience rating of the nonresident insurer that is determined by an international rating agency complies with the requirements established by the Authorized Body's regulations.

8) The country in which the nonresident insurer was registered does not belong to countries that are waging military aggression against Ukraine, as defined in Article 1 of Law of Ukraine No. 1932-XII *On Defense of Ukraine* dated 6 December 1991 (hereinafter – the Law *On Defense*).

9) The nonresident insurer complies with other requirements set by the Regulator.

Provided that a nonresident insurer meets the requirements envisages in part two of this article, the nonresident insurer has the right to perform the following international transactions in Ukraine without opening a representative office in Ukraine, without receiving the insurance license from the Regulator under this Law, and irrespectively of the place where an insured event occurs:

1) concluding and executing insurance agreements with residents regarding to an insured item that has related insurance interests of a policyholder or those of another person specified in the insurance agreement, which applies to insurance of risks under insurance classes indicated in part one, paragraph one of this article

2) concluding and executing reinsurance agreements with resident insurers.

Article 7 of the (new) *Law On Insurance* stipulates that a nonresident insurer is authorized to open a subsidiary in Ukraine, provided that:

1) The nonresident insurer complies with requirements of Article 6 part two of the (new) *Law On Insurance*.

2) The legislation of the country in which the nonresident insurer was registered, as assessed by the Regulator according to the established procedure, does not contain any provisions that might hinder / restrict the interaction between the Regulator and supervisory / controlling authorities of such a country and/or impede the Regulator in exercising its supervisory powers over such subsidiary of the nonresident insurer.

3) At the moment a subsidiary of the nonresident insurer receives its insurance license, its assigned capital is not less than the minimum amount of capital to be held by an insurer in line with Article 40 part three of the (new) *Law On Insurance*.

4) The nonresident insurer has provided in writing its irrevocable commitment to unconditional fulfillment of the obligations arising from its subsidiary's activities in Ukraine.

5) The country in which the nonresident insurer was registered does not belong to countries that are waging military aggression against Ukraine, as defined in Article 1 of the *Law On Defense*.

Requirements for assigned capital and conducting operations in Ukraine are set for subsidiaries of nonresident insurers by this Law and the Regulator's regulations.

28. Are foreign insurance companies, once authorised, treated in every respect as a domestic undertaking?

Current regulation (in accordance with the current Law On Insurance:

Foreign insurers that opened branches in Ukraine and obtained licenses to conduct insurance activities are actually residents and can operate on the insurance market, taking into account the specific requirements in regulation of operation of branches compared with legal entities.

Future regulation (in accordance with the (new) *Law On Insurance*, the main provisions of which take effect on 1 January 2024):

Article 3 stipulates that insurance activities in Ukraine can be carried out only by:

1) resident insurers that obtained a license as required by the (new) *Law On Insurance*

2) nonresident insurer branches that obtained a license as required by the (new) *Law On Insurance*

3) nonresident insurers, taking into account provisions of Article 6 of the (new) *Law On Insurance*

The (new) Law *On Insurance* regulating operation of insurers (direct business) applies to the branches of nonresident insurers and reinsurers (reinsurance), except for cases explicitly specified in this Law (in particular, taking into account another organizational and legal form, other requirements for registered capital, corporate governance systems, procedure exiting the market etc).

It means, the (new) Law *On Insurance* provides for operation of resident insurers, branches of nonresident insurers, and nonresident insurers.

Accordingly, nonresident insurers that have opened branches in Ukraine and obtained a license are in fact residents. Regulation and supervision of their activities is carried out in the same way as for resident insurers, taking into account those features that follow from their organizational and legal form.

Nonresident insurers are not subject to the regulation of the NBU and remain under the regulation of the countries in which they are based.

29. Is there a legal monopoly in one or more insurance branches (e.g. motor insurance, accident insurance)?

Current regulation (in accordance with the Law On Insurance):

Ukraine has neither laws/regulations establishing a monopoly of a certain branch of insurance, nor insurers authorized by the government to perform certain types of insurance.

However, regarding some insurance branches, the law establishes additional requirements for insurers who have the right to engage in this type of insurance, which does not lead to market monopolization, but introduces an additional mechanism for access to such a market.

Specifically, according to the Law *On Insurance*:

- insurers that are licensed to perform compulsory third party insurance against civil liability in respect of the use of land motor vehicles are required to be members of the Motor (Transport) Insurance Bureau of Ukraine (MTIBU)

- insurers that are licensed to perform professional liability insurance of nuclear operators for damage that may be caused by a nuclear incident are required to establish a nuclear insurance pool

- when insuring government-backed agricultural products, the Authorized Body has the right to set additional requirements for insurers that insure government-backed agricultural products, taking into account the provisions of the Law of Ukraine No. 4391- VI *On Specifics of Insurance of Government-Backed Agricultural Products* dated 9 February 2012.

Future regulation

The same approach will be applied after enactment of the (new) Law *On Insurance*, the main provisions of which take effect on 1 January 2024.

B. Legal framework

30. Which authorities are responsible on insurance and occupational pensions in Ukraine?

Article 21 of the Law *On Financial Services* stipulates that the state regulation of financial services markets is carried out as follows:

The regulation of the markets for securities and derivatives, the regulation of professional activity in the securities market, and the regulation of activity in the system of accumulative pension provision are implemented by the NSSMC.

The regulation of the market for banking services and services other than those mentioned in the previous paragraph, as well as the regulation of the markets for nonbank financial services, is conducted by the NBU.

Under Article 7 of the Law *On the National Bank*, the NBU carries out state regulation and supervision on an individual and consolidated basis in the nonbank financial services markets over activities of nonbank financial institutions and other entities other than financial institutions but entitled to provide certain financial services within the limits set by the Law of Ukraine *On Financial Services* and other laws of Ukraine.

The Law *On Financial Services* categorizes insurance services as financial services. The regulation and supervision of entities providing such services are therefore within the purview of the NBU.

The Law *On Insurance* empowers the NBU to regulate the activities of insurers (residents and nonresidents), insurance intermediaries, and actuaries.

In accordance with the Law of Ukraine No. 448/96-VR *On State Regulation of Capital Markets and Organized Commodity Markets* dated 30 October 1996 (hereinafter – the Law *On State Regulation of Capital Markets*), the NSSMC regulates the activities of insurers established in the form of joint stock companies in terms of compliance with legislation on joint stock companies, and publishes information about insurance organizations that insure lifelong pensions at the expense of the accumulative system of mandatory state pension insurance, including indicators used by them to calculate lifelong pensions.

31. Please indicate the principal legislation adopted in this area and its implementation.

Insurance

Current regulation:

Laws and regulations that also regulate public relations in the field of insurance are the Constitution of Ukraine, Civil Code of Ukraine, Commercial Code of Ukraine, Code of Bankruptcy Procedures of Ukraine, Air Code of Ukraine, Merchant Shipping Code of Ukraine, Customs Code of Ukraine, Laws of Ukraine *On Financial Services*, *On Insurance*, *On the National Bank*, the Law of Ukraine No. 1961-IV *On Compulsory Insurance against Civil Liability in Respect of the Use of Land Motor Vehicles* dated 1 July 2004 (hereinafter – the Law *On Civil Liability*), and other laws of Ukraine.

Starting from 1 July 2020, the NBU, in accordance with the Law No. 79-IX became a regulator of certain nonbank financial services markets, including the insurance market.

The current Law of Ukraine *On Insurance* was passed on 7 March 1996. Its provisions ignore the latest trends in global financial infrastructure, and its regulatory approaches need to be modernized and unified. A homogeneous regulatory environment is required to be created.

Future regulation (in accordance with the (new) Law *On Insurance*, the main provisions of which take effect on 1 January 2024:

The (new) Law *On Insurance* will consistently change the approach to the regulation and supervision of the insurance market in Ukraine and will promote its recovery and further development. Its provisions include improving licensing requirements for insurers, assessing their solvency and liquidity, the need to build an effective system of insurers management, risk-oriented prudential supervision and supervision of insurers' market behavior, as well as defining reorganization, resumption, derecognition and transfer insurance portfolio. An important focus of the (new) Law *On Insurance* is also placed on the establishment of new requirements for insurance intermediaries, as well as the introduction of liability for noncompliance.

The mechanisms of state regulation and supervision established by the (new) Law *On Insurance* ensure the implementation of the EU-Ukraine Association Agreement and the updating of national legislation, taking into account the provisions of Directive 2009/138/EU (Solvency II) and Directive 2016/97 (IDD). During the preparation of the draft Law, a multifaceted analysis of global practices of regulation and supervision of nonbank financial institutions was conducted. Recommendations of World Bank experts and the EU technical assistance project Strengthening the Regulation and Supervision of Nonbank Financial Markets in Ukraine (EU-FINREG) were analyzed.

The main provisions of the (new) Law *On Insurance* will take effect on 1 January 2024. Requirements for the assessment of solvency in accordance with Directive 2009/138/EU (Solvency II) for insurers that meet the criteria and conditions set by the Law will be introduced starting from 1 January 2027. Requirements for the activity of insurance intermediaries take effect on 1 January 2025.

The work in developing new regulations to ensure the implementation of the provisions of the (new) Law *On Insurance* has already begun.

Occupational pensions

Non-State pension provision is provided in accordance with the Law of Ukraine No. 1057-IV *On Non-State Pension Provision* dated 9 July 2003 (hereinafter – Law *On Non-State Pension*) and by-laws developed in accordance with this Law, namely the Resolutions of the NSSMC. Certain regulations of the NSSMC which regulate certain issues that have not yet been regulated by the NSSMC Regulations also remain in force. The NSSMC Regulations on pension provision include:

- *Procedure for Approving Candidates for the Board of the Non-State Pension Fund* approved by the Resolution of the NSSMC No. 632 dated 12 August 2021 and registered by the Ministry of Justice of Ukraine as No. 1308/36930 on 7 October 2021

- *Regulation On Approval of the Statute of the Non-State Pension Fund and Registration of Pension Schemes of the Non-State Pension Fund* approved by the Resolution of the NSSMC No. 607 dated 5 August 2021 and registered by the Ministry of Justice of Ukraine as No. 1232/36854 on 20 September 2021

– Regulation *On Investment Declaration of the Non-State Pension Fund* approved by the Resolution of the NSSMC No. 606 dated 5 August 2021 and registered by the Ministry of Justice of Ukraine as No. 1362/36984 on 20 October 2021

– *Procedure for Calculating and Publishing Information on the Weighted Average Change in the Net Unit Value of Pension Assets* approved by the Resolution of the NSSMC No. 756 dated 8 December 2020 and registered by the Ministry of Justice of Ukraine as No. 156/35778 on 4 February 2021

– *Licensing Conditions for Conducting Certain Types of Professional Activities in the Stock Market* approved by the Resolution of the NSSMC No. 61 dated 2 February 2021 and registered by the Ministry of Justice of Ukraine as No. 455/36077 on 6 April 2021

– Regulation *On Requirements for Persons Engaged in Professional Activities on Institutional Investors Asset Management (Asset Management Activities), on Composition and Structure of Assets of Non-State Pension Funds Managed* approved by the Resolution of the NSSMC No. 582 dated 26 April 2012 and registered by the Ministry of Justice of Ukraine as No. 787/21100 on 17 May 2012

– Regulation *On Procedure for Determining the Net Value of Pension Fund Assets* approved by the Resolution of the State Securities and Stock Market Commission No. 339 dated 11 August 2004 and registered by the Ministry of Justice of Ukraine as No. 96/10376 on 25 January 2005

– Regulation *On Administration of Non-State Pension Fund* approved by the Order of the National Commission for State Regulation of Financial Services Markets No. 4400 dated 3 December 2013 and registered by the Ministry of Justice of Ukraine as No. 218/24995 on 4 February 2014.

NSSMC is working on the new draft law *On Non-State Pension Funds* which will repeal the current one of 2003. This draft law will be based on directive (EU) 2016/2341 of the European Parliament and of the Council of 14 December 2016 on the activities and supervision of institutions for occupational retirement provision (IORPs).

Supervisory Authority

32. What is the set-up and structure of the financial supervisory authority in Ukraine? Who supervises the insurance company's business overall, its state of solvency and its technical provisions and the assets covering them (please indicate name and address)?

In accordance with the amendments to Law *On Financial Services* and the Law of Ukraine *On the National Bank*, which were introduced by the Law No. 79-IX, the NBU received the mandate to regulate and supervise the nonbank financial services market on 1 July 2020. NBU Address is: 9, Instytutska St., 01601 Kyiv, Ukraine, e-mail: nbu@bank.gov.ua.

In particular, under Article 7 paragraph 8¹ and Article 55¹ of the Law of Ukraine *On the National Bank*, the NBU conducts state regulation and supervision on individual and consolidated basis in the nonbank financial services markets over activities of nonbank financial institutions and other entities that are not financial institutions but entitled to provide certain financial services within the limits set by the Law of Ukraine *On Financial Services* and other laws of Ukraine.

In line with Article 21 of the Law of Ukraine *On Financial Services*, the state regulation of financial services markets is conducted as follows:

The regulation of markets for securities and derivatives, the regulation of professional activity in the securities market, and the regulation of activity in the defined contribution pension system are carried out by the NSSMC.

The regulation of the market for banking services and services other than those specified in the second paragraph of this part, as well as the regulation of the markets for nonbank financial services, is conducted by the NBU.

The NBU's powers in the field of state regulation of nonbank financial services markets are defined in detail in Article 28 of the Law *On Financial Services* and include the following:

1) development and approval of laws and regulations that are obligatory for implementation by central and local executive authorities, local self-government authorities, participants of financial services markets, their associations, and control of their implementation

2) registration and maintenance of the State Register of Financial Institutions, and in cases specified by it, other registers of entities that are not financial institutions, but that have the right to provide certain financial services, maintenance of a publicly available information database on financial institutions, and determination of the list of and requirements for the documents submitted for entering information in said registers and database

3) issuing to nonbank financial institutions and entities that are not financial institutions, but that have the right to provide certain financial services, of licenses to provide financial services, determine the procedure for their issuing, suspension, renewal, and revocation (cancellation)

3¹) definition of requirements for entities intending to conduct financial service activities, including requirements for their ownership structure, corporate governance system, risk management and internal control, terms of financial service activities the implementation of which requires appropriate licenses (terms of license), and the procedure for monitoring their compliance

4) establishment of mandatory criteria and standards of capital adequacy and solvency, liquidity, profitability, asset quality and risk of operations, compliance with the rules of financial services and other indicators and requirements that limit the risks of transactions with financial assets

5) setting the fee for registration actions of the NBU with respect to nonbank financial institutions and entities that are not financial institutions but that have the right to provide certain financial services, as well as for issuing licenses by the NBU to provide financial services based on the NBU's cost recovery principle related to the provision of such services

6) providing information upon requests for information, providing conclusions on the categorization of transactions as financial services

7) putting restrictions on the combination of certain types of financial services

8) control over the accuracy of information provided by participants in the financial services market

8¹) supervision (control) over the compliance by nonbank financial institutions, as well as entities that are not financial institutions but that have the right to provide certain financial services, with the terms of carrying out activities for the provision of financial services

9) conducting independently, or jointly with other state authorities, inspections of financial services market participants (except clients), as well as other legal entities and individuals engaged in financial services for which the law sets requirements for obtaining a license and/or registration, without proper license and/or registration

10) if a violation of legislation on financial services (except for the legislation regulating activities in the securities and derivatives markets, professional activities in the stock market and activities in the funded pension system) occurs, or a violation of NBU regulations takes place, the NBU has the right to apply corrective actions and impose administrative penalties

12) sending to financial institutions, and self-regulatory organizations, mandatory orders to eliminate violations of legislation on financial services and protection of the rights of consumers of financial services and the requirement to provide the necessary documents

13) sending materials to law enforcement authorities regarding the occurrence of offenses that became known during inspections

14) sending materials to the Antimonopoly Committee of Ukraine in case of violations of legislation on protection of economic competition

15) the requirement to convene a meeting of participants of the financial institution

16) monitoring the movement of capital to Ukraine and abroad through financial services markets

17) establishment of requirements for software and special technical equipment of financial institutions related to the provision of financial services

18) establishing the procedure for disclosure of information and preparation of reports by participants in financial services markets in accordance with Ukrainian legislation

19) determination of professional requirements for managers, chief accountants (persons responsible for accounting, including on the basis of contracts) of financial institutions, and the right to demand dismissal of persons who do not meet the established requirements for such positions, or termination of relevant contracts

20) approval in accordance with the laws on the regulation of certain markets of financial services of documents of financial institutions that determine the requirements for the provision of financial services

26) establishing the conditions and procedure for conducting internal audit (control) in financial institutions

27) establishing the procedure for approval in accordance with this Law of the acquisition or increase of a significant participation in a financial institution

28) protection of the rights of consumers of financial services.

Supervision of insurance companies, in accordance with the purview established by Article 21 of the Law *On Financial Services*, is carried out by the NBU, subject to the requirements of Article 29 of the Law *On Financial Services* and Section IV *State Supervision of Insurance Activities in Ukraine* of the Law *On Insurance*, in line with NBU regulations and National Commission for State Regulation of Financial Services Markets regulations (the National Commission for State Regulation of Financial Services Markets was the regulator of the nonbank financial market until 1 July 2020), which continue to apply until they are repealed by relevant NBU regulations.

Specifically, under Article 29 of the *Law On Financial Services*, the NBU shall supervise activities in nonbank financial services markets in the form of the off-site supervision and inspections pursuant to this Law and NBU regulations.

The main areas of NBU supervision in the field of state regulation of nonbank financial services markets are regular assessment of the overall financial standing of the nonbank financial institution, its performance and quality of corporate governance, system of internal control (audit) and risk management, compliance with mandatory standards and other indicators and requirements limiting risks on transactions with financial assets.

The NBU establishes the rules for nonbank financial institutions, and other entities that are not financial institutions but that have the right to provide certain financial services, regarding compiling and submitting to the NBU the reporting paperwork on their activities, and requirements for the scope and timing of such reporting.

33. Which authority is in charge of the financial supervision over occupational pension funds?

Until July 1, 2020, the National Commission for State Regulation of Financial Services Markets (NFSC) operated in accordance with the *Law On Financial Services*, the *Law On Non-State Pension* and other legislative acts of Ukraine.

Due to entry into force and implementation of the *Law No. 79-IX*, on 1 July 2020 and in accordance with paragraph 7 of Section II *Final Provisions* of this Law, the NSSMC is the successor to the National Commission for State Regulation of Financial Services Markets starting from 1 July 2020 in part of powers and functions of state regulation and supervision of financial services markets within the powers established by the *Law On Financial Services*.

34. What powers does the supervisory authority have:

- a) In order to require the necessary supplemental information;**
- b) To carry out on-site inspections;**
- c) In order to ensure that managers work in a fit and proper way;**
- d) In case of insolvency;**
- e) To sanction and remedy violations of the law?**

a) In order to require the necessary supplemental information

Insurance

Pursuant to Article 29 part five of the *Law On Financial Services*, for the purposes of state regulation and supervision, the NBU is entitled to receive the information, including confidential, from public authorities and other persons regarding the financial/property standing of participants in nonbank financial institutions, legal entities other than financial institutions that are entitled to provide certain financial services, and persons that purchase or increase a qualifying holding in these

institutions or legal entities, their business reputation, sources of funds for capital formation of such nonbank financial institutions and legal entities other than financial institutions that are entitled to provide certain financial services.

Pursuant to Article 29 part six of the Law *On Financial Services*, within its mandate for state regulation of markets of nonbank financial services, the NBU is entitled to request in writing from nonbank financial institutions and legal entities other than financial institutions that are entitled to provide certain financial services to submit document copies and written explanations on their activities. Additionally, the Law prescribes that nonbank financial institutions and legal entities other than financial institutions that are entitled to provide certain financial services are obliged to submit respective information and documents to the NBU at its written request.

Respective obligations are also included in Regulation *On Performance of the Offsite Supervision by the National Bank of Ukraine in the Markets of Nonbank Financial Services*, approved by NBU Board Resolution No. 169 dated 28 December 2020.

Occupational pensions

According to the Law *On Non-State Pension*, the NSSMC establishes the procedure for submitting information on the conclusion by the board of a non-state pension fund of agreements on providing financial services to a non-state pension fund.

Article 32 of the Law of Ukraine *On Non-State Pension* provides reporting in the field of non-state pension provision. In particular, the Administrator submits quarterly reports on non-state pension provision to:

- the NSSMC
- the boards of pension funds with which he concluded agreements on the administration of pension funds.

Annually the Administrator submits a consolidated report for each pension fund containing information about the pension fund, as well as data on reports on his administration of such pension fund and reports submitted to the Administrator during the reporting year by asset managers and the custodian to the NSSMC.

The procedure for submitting reports by the Administrator to the persons specified in this part and the requirements for the content of such reports shall be established by the NSSMC.

In the event of a deterioration in the financial condition of the pension fund, the NSSMC may set a different frequency of reporting by the Administrator, but not more than once a week. Criteria for assessing the financial condition of the pension fund shall be established by the NSSMC.

Persons managing pension funds' assets shall submit reports on asset management to:

- the NSSMC – on all pension funds, the assets of which were managed by this person during the reporting period
- the boards of pension funds with which agreements on asset management of the respective pension funds have been concluded, and to the administrators of such pension funds – on asset management of these pension funds.

The procedure for submitting reports on pension fund asset management to the persons specified in this part and the requirements for the content of such reports shall be established by the NSSMC.

The custodian shall submit reports to:

- the NSSMC – on the maintenance of all pension funds which was carried out by this custodian during the reporting period, for each pension fund separately
- the boards of pension funds with which agreements on the maintenance of pension funds by the custodian have been concluded, and to the administrators of such pension funds – on the maintenance of these pension funds.

The procedure for submitting reports on the maintenance of pension funds by the custodian to the persons specified in this part and the requirements for such reports shall be established by the NSSMC.

b) To carry out on-site inspections

Insurance

Pursuant to Article 29 of the *Law On Financial Services*, the NBU shall supervise activities in nonbank financial services markets in the form of offsite supervision and inspections pursuant to this Law and NBU regulations. Requirements for organizing, conducting, and documenting results of inspections are set forth in Article 30 of the *Law On Financial Services* and in *Regulation On Organizing, Conducting, and Documenting the Findings of Inspections of Nonbank Financial Services Markets Participants* approved by NBU Board Resolution No. 22 dated 26 February 2021.

Particularly, pursuant to Article 30 part one of the *Law On Financial Services*, within its mandate for state regulation of markets of nonbank financial services, the NBU is entitled to conduct scheduled and unscheduled inspections of activities of financial services market participants (excluding consumers of financial services), their affiliated and congenerous parties. The NBU sets the criteria to assess risk level in activities of participants of nonbank financial services market and their social importance to be used as grounds for planning the frequency of inspections. Scheduled inspections of a participant in nonbank financial services markets cannot be conducted more often than once a year.

The NBU approves the annual plan of inspections for the following year not later than on 25 December of the current year and publishes it on the NBU's official website within ten days after its approval.

Occupational pensions

The *Law On State Regulation of Capital Markets* provides the NSSMC with the following powers in the field of control:

- to establish the procedure for conducting inspections and registration of their results, in accordance with the procedure independently or jointly with other relevant bodies to conduct inspections on the activities of professional capital markets and organized commodity markets participants, subjects of the accumulative pension system (except for

depositors and participants) in relation to their activities in such a system and self-regulatory organizations of professional capital markets participants, as well as inspections of issuers' activities on the state of corporate governance and the implementation of operations on the issue and circulation of securities

- to conduct independently or jointly with other relevant bodies inspections of legal entities that have received a license under Article 4 of the Law *On State Regulation of Capital Markets*, and which have expired or revoked, for compliance with legislation governing the actions of such legal entities in the event of expiration or revocation of their licenses. Such verification may be carried out for no more than three years from the date of expiration (revocation) of the said license

- to conduct independently or jointly with other relevant Authorities inspections of persons engaged in professional activities in capital markets and organized commodity markets for compliance with the legislation on the protection of the rights of consumers of financial services

- to provide binding orders by official channels to eliminate violations of the legislation on capital markets and organized commodity markets, legislation on the protection of the rights of consumers of financial services and legislation on joint stock companies to issuers, subjects of the accumulative pension system (except for depositors and participants) and persons engaged in professional activities in the capital markets and organized commodity markets, and self-regulatory organizations through the official communication channel, as well as to require the provision of the necessary documents in accordance with the law

- to require explanations (in writing and orally), documents, information from government agencies, stock market participants or any other natural or legal persons that carry out (have intended to carry out) transactions in the securities market and/or that may be aware of the circumstances related to the subject of the inspection

- in order to prevent and combat offenses in the capital markets in the framework of international cooperation on the basis of reciprocity, to provide and receive information on the functioning of capital markets which is not a state secret and does not lead to the disclosure of the professional secret.

The authorized persons of the NSSMC have the right:

- to enter enterprises, institutions, organizations on the basis of an official certificate and to have access to documents and other materials necessary for the inspection

- to require the necessary documents and other information in connection with the exercise of their powers

- to involve their specialists, deputies of local councils (with their consent) for inspections and audits in coordination with the relevant central and local executive bodies, local authorities and self-government bodies, enterprises and associations

- to demand written explanations from the officials of enterprises, institutions, organizations within the limits of their competence.

In order to exercise the powers defined by the Law *On State Regulation of Capital Markets*, the NSSMC adopted the Resolution *On Approval of the Procedure for Conducting Inspections in the Field of Professional Activities in the Stock Market (Securities Market) and Activities in the System of Accumulative Pension Provision* No.708 dated 24 November 2020.

Conducting on-site inspections is one of the measures to implement the tasks of the NSSMC in accordance with the Law *On State Regulation of Capital Markets*.

c) In order to ensure that managers work in a fit and proper way

Insurance

The NBU performs the ongoing monitoring of financial services providers regarding the compliance of the financial services providers, as well as their managers and owners with the established fit and proper criteria. The NBU is entitled to request financial services providers or their managers to submit information, documents, and explanations regarding the managers of financial services providers to assess their compliance with the fit and proper criteria set forth in Regulation No. 153 as well as to invite them for an interview with the Qualifying Commission.

General fit and proper criteria for a insurance managers, chief accountant, head of the internal audit unit, chief risk officer, and chief compliance officer are as follows:

1) a candidate shall have:

- full civil capacity
- a higher education degree
- pool of knowledge, professional and managerial experience sufficient to properly perform duties assigned
- enough time to perform assigned responsibilities

2) no actual or potential conflicts of interests impeding the proper performance of managerial duties

3) compliance with restrictions set in Article 26 of the Law *On Corruption Prevention* (restrictions for former public servants).

Insurance managers also shall have appropriate work experience:

1) chairperson of the management board shall have at least five years in total of experience in the financial sector including at least three years in managerial positions

2) member of the board shall have at least three years in total of experience in the financial sector

3) chief accountant shall have at least five years in total of experience in accounting in the financial sector.

Insurance managers, chief accountant, head of the internal audit unit, chief risk officer, and chief compliance officer must have an irreproachable business reputation that means persons should not have unacceptable signs of business reputation connected with the observance of the law and public order, fulfillment of financial obligations, professional activity and position or possession of qualifying holding in financial institutions.

Occupational pensions

Requirements for members of the Supervisory Board and management of the asset management company

The head and certified specialists of the Asset Management Company (including the heads and certified employees of its separate divisions) carrying out asset management activities of the institutional investors may not be executives certified by specialists in another professional stock market participant.

The head or acting head of a legal entity that manages the assets of the institutional investors (except for a bank) must have at least three years of experience in the stock market, including at least one year of experience in management positions in the stock market.

The executive body of the asset management company (except for the bank) must be located in the premises located at the location specified in the Unified State Register of Legal Entities and Individuals - Entrepreneurs and Public Associations.

In case of dismissal of the head of the Asset Management Company, the body authorized by the law to appoint a head is obliged to appoint a new head or acting head no later than three working days from the date of dismissal. Such a person must comply with the requirements established by the relevant License Terms for the manager.

In case of temporary absence of the head of the Asset Management Company (vacation, business trip, temporary incapacity for work), the person temporarily performing his duties must start performing the duties of the head from the first day of his absence. The person is appointed from among the certified specialists.

In case of dismissal or temporary absence of the head of the structural unit of the bank entrusted with the function of asset management, the body endowed according to the law with the authority to appoint the head is obliged to appoint a new head or acting head of the structural unit of the bank which is entrusted with the asset management function, no later than three working days from the date of dismissal or temporary absence of the head of this structural unit.

Appointment of a person who does not meet the requirements set for the head of the asset management company as the head / acting head of the asset management company is a ground for suspending the license under the relevant resolution on imposing a sanction for securities market infringement.

The requirements established by the relevant License Terms must be met by officials of the asset management company and the asset management company (separate unit) during the whole period of conducting professional activity in the stock market - asset management activities of institutional investors (asset management activities).

Head of the Asset Management Company (or acting head of the legal entity managing the assets of institutional investors) and members of the executive body of the asset management company (in case of establishing a collegial executive body), chairman and members of the supervisory board (in case of establishing a supervisory board) the head of the internal audit service (control) (in case of creation of a separate structural unit) or the internal auditor (controller) (in case of appointment of a separate official) must have a business reputation for the last two years that meets the following requirements:

- the individual was not deprived of the right to hold certain positions or engage in certain activities in the securities market
- the individual has no criminal record for crimes against property, in the sphere of economic activity and / or in the sphere of official activity, not removed or not repaid in the manner prescribed by law
- the individual has not held the position of head and / or member of the executive body, chief accountant, head of the internal audit service (control) (in case of creating a separate structural unit) or internal auditor (controller) in a professional participant on any date during one year precedes the decision on bankruptcy of such professional participant and / or its liquidation by the decision of the court to which the sanction of revocation of the license was applied
- the individual was not sanctioned with the revocation of the certificate for the right to conduct professional activities with securities
- the actions of the individual did not lead to the cancellation of documents entitling him/her the right to conduct activities to operate in the financial services market (cancellation of certificates, etc.)
- the person has not been brought to administrative responsibility for violating the legislation on the securities market more than twice during the last year (except for officials of the CII asset management company)
- the individual has not committed more than three administrative offenses in the stock market (applies only to officials of the CII asset management company)
- the individual appeared to draw up a report on an administrative offense in the securities market (in the case of its drafting and the absence of objective grounds for non-appearance)
- the individual does not have unpaid penalties that were imposed for violation of law in the securities market
- the individual was not dismissed at the request of a state body (including a foreign one) and on the basis of paragraphs 2-4, 7, 8 of part one of Article 40 and Article 41 (except paragraph 5 of part one of this article) of the Labor Code of Ukraine five years (during the last five years)
- the individual agreed to a substantial participation in a professional stock market participant in case of its acquisition and / or increase in the manner prescribed by law (if on the date of acquisition and / or increase of substantial participation such a requirement was established by law)
- the individual is not on the list of persons connected with terrorist activities or in respect of whom international sanctions have been applied in accordance with the procedure established by law
- the person was not sanctioned by the relevant foreign states, intergovernmental associations, international organizations and / or Ukraine
- previous activity (inaction) of the person who exercised control in the financial institution and / or in the absence of persons in the ownership structure who exercised control, was the ultimate beneficial owner (controller), exercised the powers of sole executive body (or appointed chairman or member of the collegial executive body) of the financial institution, did not lead to decisions on bankruptcy (compulsory liquidation) of the financial institution, the appointment of an interim head (interim administration) as of any date within one year preceding these events
- previous activity (inaction) of the individual who exercised control in the financial institution and / or in the absence of persons in the ownership structure who exercised control, was the ultimate beneficial owner (controller), exercised the powers of sole executive body (or appointed chairman or member of the collegial executive body) of the financial institution, did not lead to the application of a sanction in the form of revocation (revocation) of the license in the financial services market (except

for revocation of the license due to failure to perform a certain activity in the financial services market), which was not revoked, as of any date during the year preceding these events.

Requirements for members of Supervisory Board and management of NPF Administrators

The Head of the NPF Administrator (its separate and / or specialized structural units) may not simultaneously work in other professional participants of the stock market while carrying out professional activities in the stock market.

The head of the NPF Administrator must have a certificate of the right to carry out actions related to the direct conduct of a certain type of professional activity in the stock market. If the Administrator of the NPF conducts several types of professional activities in cases provided by law, the head must have a certificate of the right to perform actions related to the direct conduct of each type of professional activity. This requirement does not apply to the Administrator of the NPF - the bank in the presence of the deputy head of the bank or members of the executive body, which due to the division of responsibilities in accordance with internal documents of the bank are responsible for the bank's professional activities in the stock market. In this case, such a deputy head of the bank or a member of the executive body must have a certificate of the right to carry out actions related to the direct conduct of certain professional activities in the stock market.

The head of the NPF Administrator on the date of his/her appointment or the head of the legal entity on the date of application to the NSSMC for a license must have experience in stock market for at least three years, including experience in management positions for at least one year (except for the legal entity - sole founder of the corporate pension fund, which decided to independently administer this fund). This requirement does not apply to the Administrator of the NPF - the bank in the presence of the deputy head of the bank or members of the executive body, which due to the division of responsibilities in accordance with internal documents of the bank are responsible for the bank's professional activities in the stock market. In this case, such a deputy head of the bank or a member of the executive body must have experience in the stock market for at least three years, including experience in management positions for at least one year.

The head of the structural unit for the administration of the sole founder of a corporate pension fund, who has decided to administer such a fund independently, must have a total experience of at least five years.

The executive body of the NPF Administrator (except for the bank) must be located in non-residential premises at the location specified in the Unified State Register of Legal Entities, Individuals - Entrepreneurs and Public Associations. Documents relating to professional activities must be kept in this premises.

During the temporary absence of the head (vacation, business trip, temporary incapacity, etc.), the authorized body of the NPF Administrator must ensure the presence of a person who performs his/her duties. Such a person is appointed from among the certified specialists (except the bank) for any type of activity carried out by the NPF Administrator, and must take up the duties of the head from the first day of his/her absence.

In case of dismissal of the head of the NPF Administrator (except for the bank), the authorized body of the NPF Administrator is obliged to appoint a person to perform his duties,

who has a certificate for any type of professional activity, no later than the next working day the stock market conducted by the NPF Administrator or a new manager.

The person acting as the head of the NPF Administrator may be appointed for a term not exceeding three months.

The authorized body of the NPF Administrator must appoint a new head of the acting head no later than three months after his / her term of office, except in the case of temporary absence of the head. Such manager must meet the requirements for the manager established by the relevant License Terms.

By Resolution of the Supervisory Board (if any) or the highest governing body of the NPF Administrator (except the bank), a structural unit is created or a separate official is appointed to conduct internal audit (control).

The head of the structural unit for the administration of pension funds of the asset management company, the head of the structural unit of the sole founder of the corporate pension fund, who decided to independently administer such a fund, may only be individuals who are:

- have no restrictions on the performance of the functions assigned to them by their related parties;
- have not been the heads of legal entities declared bankrupt or subjected to compulsory liquidation during the last seven years during the period of this person's holding a managerial position.

Chairman and members of the collegial executive body (chairman of the sole executive body and his deputy) of the administrator, heads of its separate divisions, which are empowered to administer NPF, defined by the NSSMC regulatory act on certification of stock market specialists and specialists, its separate structures Units that directly administer NPFs must be certified in accordance with the following regulations of the NSSMC in the specialization of NPF Administration.

The head of the structural unit for administration of the sole founder of the corporate pension fund, who decided to administer such a fund independently, as well as specialists who directly administer, must be certified in accordance with the regulatory legal act of the NCPFC on the certification of practitioners in the stock market for the specialization "administration of the NBFIs".

Business reputation of a person who exercises the powers of a sole executive body (appointed by the chairman or member of a collegial executive body) or exercises the powers of the chairman or member of the supervisory board of the NPF Administrator (except the bank) or who is the head of internal audit (control) service (a separate executive), conducting internal audit (control) for the last three years must meet these requirements:

- 1) be perfect
- 2) the person's license has not been revoked, canceled or suspended, registration has been revoked, membership has been canceled or suspended, the certificate or permit for an offense on the financial services market has been revoked in accordance with the legislation
- 3) the person was not dismissed from work in the financial services markets at the request of a state body (including foreign), at the initiative of the owner of the enterprise (institution, organization)

or its authorized body (for a resident - on the basis of Article 40 part one indents 3, 4, 7, 8 and Article 41 part one points 1, 1-1, 2, 3 of the Labor Code of Ukraine), at the request of a trade union or other body authorized to represent the labor collective, dismissed from the functions of attorney (manager) of the trust or terminated other fiduciary relations

4) the person was not the head or chief accountant of the legal entity that was declared bankrupt or subject to the procedure of compulsory liquidation, or the license was revoked for committing offenses at the financial market during the period when the person was on the top management position or during the year preceding the adoption of the relevant decision

5) the person does not have a conflict of interest in relation to the licensee or has the opportunity to eliminate such a conflict of interest

6) economic and other restrictive measures (sanctions) have not been applied to the person in accordance with the resolutions of the United Nations Security Council, other international organizations, decisions of the Council of the European Union, other intergovernmental associations in which Ukraine is a member (participant). or the prohibition of trade and / or financial transactions by the authorities of foreign states (except for states carrying out armed aggression against Ukraine in the sense specified in Article 1 of the Law *On Defense* or by Ukraine

7) the person has agreed to a significant share in a professional stock market participant in the manner prescribed by law in the event of its acquisition or increase

8) the person has not been deprived, in the manner prescribed by law, of the right to hold certain positions or engage in certain activities

9) the person has not been brought to administrative responsibility for violating the law in the financial services markets more than twice a year

10) there is no fact of non-appearance of a person (without good reason) to draw up a report on an administrative offense in the securities market (if any).

Control of compliance with these requirements for management is as follows.

Changes to the data specified in the documents attached to the license application provide for the submission of notifications by the asset management company to the licensing authority in the forms and content specified in the relevant License Terms.

Also, the NPF Administrator is obliged to inform the NSSMC from the date of changes in the process of professional activity in the stock market and provide information confirming the relevant changes in content and form, in particular, in case of changes in identification, business reputation of the sole executive body, chairman and members of the executive body, chairman and members of the supervisory board, and the head of the internal audit service (control) (individual official conducting internal audit (control) and / or appointment of new persons to perform such duties) temporary absence of the head).

According to Article 9 of the Law *On State Regulation of Capital Markets*, the authorized persons of the NSSMC have the right, in particular, to request the necessary documents and other information in connection with the exercise of their powers.

Also, according to Article 11 of the Law *On State Regulation of Capital Markets*, for failure to submit, submission of incomplete information and / or submission of inaccurate information to the NSSMC and non-compliance or late execution of orders, resolutions or decisions of authorized persons of the NSSMC to eliminate violations of legislation on capital markets and organized commodity markets, the system of funded pension provision, legislation on joint stock companies provides for liability for offenses in capital markets and / or organized commodity markets.

In addition, the license of a professional participant in capital markets may be suspended according to the relevant resolution on imposing a sanction when establishing the NSSMC the fact of committing an offense, as defined in Article 11 of the Law *On State Regulation of Capital Markets*, markets, if such a violation has not been eliminated.

d) In case of insolvency

Insurance

Current regulation (in accordance with the Law On Insurance):

The regulator has the right to appoint a forced reorganization of the resident insurer in the case of:

- a) non-fulfillment of obligations to policyholders within three months
- b) failure to achieve the amount of authorized capital specified by law
- c) occurrence of other cases determined by the current legislation of Ukraine.

Compulsory reorganization involves:

- a) conducting a comprehensive audit of the financial and economic activities of the resident insurer, including a mandatory audit
- b) determination by the Regulator of the managing person, without whose consent the financial, economic and personnel management of the resident insurer cannot be carried out
- c) establishing a ban on the free use of the property of a resident insurer and accepting insurance obligations without the permission of the Regulator
- d) establishment of a mandatory schedule for settlements with policyholders
- e) making a decision on liquidation or reorganization of the resident insurer. Liquidation of a resident insurer is carried out in the manner prescribed by current legislation of Ukraine.

Liquidation of a resident insurer by a court decision as a result of its bankruptcy is carried out in accordance with the procedure established by the Bankruptcy Procedure Code of Ukraine.

Peculiarities of the Regulator's application of influence measures are set out in the Regulation *On Corrective Measures*. The procedure for terminating the activities of the insurer is defined in the Regulation No. 153.

Future regulation (in accordance with the (new) Law On Insurance):

Liquidation of the insurer in case the Regulator decides to classify the insurer as insolvent and to revoke the insurer's license is carried out in accordance with the Bankruptcy Procedure Code of Ukraine.

The decision of the Regulator to classify the insurer as insolvent and to revoke the insurer's license is the basis for the Regulator to apply to the commercial court with a request to initiate bankruptcy proceedings against the insurer.

The Regulator applies to the Commercial Court to initiate bankruptcy proceedings in accordance with the Bankruptcy Code of Ukraine within one month from the date of the Regulator's decision to classify the insurer as insolvent and the decision to revoke the license of such insurer.

The initiated liquidation procedure of the insurer may not be suspended / terminated, including in the case of recognition of illegal (illegal) and cancellation of individual acts of the Regulator, which were the basis for its initiation.

The liquidation procedure of the insurer is considered completed, and the insurer as a legal entity - liquidated from the date of entry in the Unified State Register of Legal Entities, Individuals - Entrepreneurs and Public Associations.

Occupational pensions

According to the Law *On Non-State Pension*, a pension fund cannot be declared bankrupt and liquidated under the bankruptcy legislation. The procedure for the establishment, operation and liquidation of pension funds, as well as the peculiarities of their registration as a financial institution shall be determined by this Law.

Pursuant to Article 6 part five of the Law *On Non-State Pension* the termination of a pension fund by division or transformation into another type of pension fund is prohibited. Peculiarities of mergers and acquisitions of pension funds shall be established by the NSSMC.

The Procedure on carrying out certain actions related to the termination of private pension funds was approved by the State Commission for Regulation of Financial Services Markets on August 29, 2006 No. 6154 (as amended by the Procedure of the National Commission for State Regulation of Financial Services Markets dated 23.02.2016 No. 393) and registered by the Ministry of Justice of Ukraine on 19 September 2006 under No. 1058/12932 (hereinafter - the Procedure No. 393). The procedure determines the peculiarities of the procedure of termination of pension funds by their liquidation or reorganization (accession or merger) and establishes the procedure for submission and consideration of documents for termination of the non-state pension fund.

Termination of the private pension fund can occur only as a result of: liquidation; accession; merger.

It is not allowed to terminate the pension fund by dividing or transforming it into another type of pension fund.

In case of decision-making to terminate a private pension fund in accordance with the requirements of the Law, the authority that made such a decision shall appoint a termination commission and the chairman of the termination commission. The termination commission shall be formed in the number of at least three persons.

The Section II of the Procedure No. 393 sets out the requirements for the formation, composition, powers and procedure for the functioning of the commission for the termination of a private pension fund.

Termination of the pension fund by liquidation is based on a decision made in accordance with Article 17 of the Law *On Non-State Pension*. Liquidation of the pension fund may be carried out in other cases established by law.

In the case of decision-making to terminate the pension fund by liquidation in court, the liquidation procedure takes place after the entry into force of a court decision in accordance with the procedure in accordance with this Section.

In the case of decision-making to liquidate a corporate pension fund, if its creation was provided for in a collective agreement, the decision to liquidate such a fund shall take effect subject to amendments to the collective agreement.

The Section III of the Procedure No. 393 establishes the requirements and order for passing the procedure for termination of a private pension fund by liquidation.

Termination of a pension fund as a result of joining another pension fund is based on the decision of the founder(s) or successor(s) of the founder(s) of the joining pension fund(s) agreed with the founder(s) of the pension fund to which such pension fund joins.

Upon joining, all property rights and obligations of the joining pension fund are transferred to the pension fund to which it joins and which is determined by its successor (assets and liabilities of the joining pension fund are transferred in full to the balance of the successor pension fund).

Joining a pension fund to another pension fund is not allowed if the joining pension fund has a different type than the pension fund to which the joining is planned.

The Section IV of the Procedure No. 393 establishes the requirements and procedure for passing the procedure of termination of the pension fund by accession.

Termination of two or more pension funds of the same type as a result of a merger is carried out by:

- 1) creation of a new pension fund in accordance with Articles 11 and 12 of the Law of the same type as merging funds;
- 2) the termination of merging pension funds as a result of joining the newly formed pension fund shall be in accordance with the procedure prescribed in Section IV of this Procedure No. 393 for each pension fund separately.

Termination of pension funds by merging is based on the decision of the founders or successors of the founders of merging pension funds.

Upon merger, all property rights and liabilities of merging pension funds are transferred to the newly formed pension fund, which is formed instead of the existing two or more pension funds and which is considered their successor (assets and liabilities of merging pension funds are fully transferred to balance of the pension fund - the successor).

In the case of a merger of two or more pension funds of the same type, the newly formed pension fund must be of the same type as the funds terminated as a result of their merger.

Mergers of pension funds are not allowed if the newly formed successor pension fund has a different type than the pension funds that are terminated as a result of their merger.

The Section V of the Procedure No. 393 establishes the requirements and procedure for passing the procedure of termination of pension funds by merger.

e) To sanction and remedy violations of the law

Insurance

With the aim to implement the Law *On Financial Services*, the NBU Board approved the Regulation *On Corrective Measures*. The Regulation *On Corrective Measures* establishes the procedure and conditions for the NBU to impose corrective measures (sanctions) in the area of state regulation of activities in the nonbank financial services markets for violation of laws and regulations regarding the provision of nonbank financial services. The NBU chooses and imposes corrective measures that are adequate to violations of laws on financial services and with consideration to the nature and circumstances of committing the violations, their causes and consequences.

Occupational pensions

Sanctions or other measures of influence provided by the current legislation are applied to legal entities for offenses in the capital markets and organized commodity markets. In particular, the Law *On State Regulation of Capital Markets* establishes liability (sanctions or other measures of influence) for violations in the capital markets and/or organized commodity markets.

Article 32 of the Law of Ukraine No. 361-IX *On Prevention and Counteraction to Legalization (Laundering) of Criminal Proceeds, Terrorist Financing and Financing of Proliferation of Weapons of Mass Destruction*⁹ dated 12 December 2019 (hereinafter - the AML/CFT Law) provides that measures of influence are applied to the subjects of primary financial monitoring for violation of the requirements of legislation in the field of prevention and counteraction to legalization (laundering) of criminal proceeds, terrorist financing and financing of proliferation of weapons of mass destruction, the state regulation and supervision of which are carried out by the NSSMC.

Administrative penalties are imposed in accordance with the Code of Ukraine on Administrative Offenses for administrative offenses related to violations of the law in the capital markets and organized commodity markets, the non-fulfillment of legal requirements of the officials of the subjects of state financial monitoring regarding the elimination of violations of the legislation on prevention and counteraction to legalization (laundering) of criminal proceeds, terrorist financing and financing of proliferation of weapons of mass destruction or for creating obstacles to the performance of their duties.

The procedure and terms of consideration of cases of violations in capital markets and organized commodity markets by the NSSMC are determined by the *Rules for Consideration of Cases of Violation of the Law on Capital Markets and Organized Commodity Markets, Application of Sanctions or Other Measures of Influence* approved by the Resolution of the NSSMC No. 405 dated

⁹ <https://zakon.rada.gov.ua/laws/show/361-20?lang=en#Text>

28 July 2020 and registered by the Ministry of Justice of Ukraine as No. 966/35249 on 2 October 2020.

The procedure and terms of consideration of cases of violation of the AML/CFT Law by the NSSMC are determined by the *Rules for Consideration of Cases of Violation of the Law on Prevention and Counteraction to Legalization (Laundering) of Criminal Proceeds, Terrorist Financing and Financing of Proliferation of Weapons of Mass Destruction and Application of Measures of Influence* approved by the Resolution of the NSSMC No. 227 dated 6 April 2021 and registered by the Ministry of Justice of Ukraine as No. 637/36259 on 13 May 2021.

35. To whom does the supervisory authority report to?

Insurance

Pursuant to Law *On the National Bank*, the NBU is the central bank of Ukraine, a special central body of the state administration, whose legal status, objectives, functions, powers, and principles for organization are determined by the Constitution of Ukraine, this Law, and other laws of Ukraine. The NBU shall be an economically independent body that carries out expenditures at the expense of its own revenues, and in the cases specified by this Law - also at the expense of the funds of the State Budget of Ukraine.

The NBU shall not be liable for and not assume the commitments of government bodies; the government bodies shall not be liable for the NBU's commitments, unless they voluntarily assume such a commitment.

Under the Constitution of Ukraine, the main tasks of the NBU Council include developing Monetary Policy Guidelines and overseeing the conduct of monetary policy. The NBU Council shall oversee the NBU's internal control system.

Pursuant to Article 51 of the Law *On the National Bank*, the NBU shall be accountable to the President of Ukraine and the Verkhovna Rada of Ukraine within their constitutional authority.

The accountability means the following:

- 1) The NBU Governor is nominated by the President of Ukraine and appointed and dismissed by Verkhovna Rada of Ukraine.
- 2) Half of the NBU Council members are appointed and dismissed by the President of Ukraine.
- 3) Half of the NBU Council members are appointed and dismissed by the Verkhovna Rada of Ukraine.
- 4) Every year before 1 May, the NBU Governor presents a report about the NBU's activities to the Verkhovna Rada of Ukraine.
- 5) Submission to the President of Ukraine and the Verkhovna Rada of Ukraine of an annual report on the monetary policy implementation for the previous year.

The NBU shall on a quarterly basis provide information on noncash issue in the relevant period to the President of Ukraine and the relevant Committee of the Verkhovna Rada of Ukraine, the competence of which includes the issues related to banking, namely:

for the bank refinancing purposes
for the interventions in the inter-bank foreign exchange market
for the stock market operations.

The NBU shall have the right to submit to the President of Ukraine, in accordance with the procedure established by law, proposals with regard to legislative regulation of the issues aimed at the exercise of its functions of the NBU.

On the annual basis, by 1 March of the current year, the NBU shall submit to the President of Ukraine and the Verkhovna Rada of Ukraine the information specified in Article 52 part three of the Law *On the National Bank of Ukraine*.

Pursuant to Article 53 of the Law *On the National Bank*, any interference of the public authorities, other public institutions or their officials, any legal entities or individuals in the exercise of functions and powers of the NBU, NBU Council, NBU Board, or NBU employees shall be prohibited, except for within the limits stipulated by the Constitution of Ukraine and the Law *On the NBU*.

The NBU shall submit reports and information to state authorities and other government bodies in the cases stipulated by the Constitution of Ukraine and the Law *On the National Bank*.

All matters related to the NBU functions may only be defined and altered by the Law *On the National Bank*. Any provision of this Law may only be changed by amending the Law.

Occupational pensions

According to Article 6 part one of the Law *On State Regulation of Capital Markets*, the NSSMC is a state collegial body which is subordinated to the President of Ukraine, and which reports to the Verkhovna Rada of Ukraine.

Informing the Verkhovna Rada on the activities of state bodies and officials is regulated by Article 232⁻⁴ of the Law of Ukraine No. 1861-VI *On the Rules of Procedure of the Verkhovna Rada of Ukraine* dated 10 February 2010.

36. What are the requirements of professional secrecy with respect to the members of the supervisory authority?

Insurance

In Accordance to the Law *On the National Bank*:

“Article 66. Protection of Secrets

The NBU officials, both during and after their term of office, are prohibited from disclosing the information, which constitutes the state secret, banking secret, or is of confidential nature and which has come to their knowledge in the course of the performance of their official duties, except for the cases specified by the laws of Ukraine.”

Also, respective requirements are detailed in the NBU’s internal regulations, in particular:

Regulation *On Protection of Restricted Information Not Classified as State Secrecy within the National Bank of Ukraine* approved by NBU Board Decision No. 570 dated 8 August 2019 (as amended).

NBU Board Resolution *On Dealing with Restricted Information Not Classified as State Secrecy* No. 246 dated 14 August 2008, under registration No. 1375 dated 14 August 2008 (as amended).

Article 11 of Law of Ukraine No. 1953-IX *On Financial Services and Financial Companies* dated 14 December 2021, the main provisions thereof to come into effect on 1 January 2024, sets forth the obligations of NBU officials to ensure the protection of secrecy of financial service.

Occupational pensions

According to Article 134 of the Law *On Capital Markets*, professional secrecy on capital markets and organized commodity markets (hereinafter – the professional secrecy) is the information about the activities and/or financial position of a client, as well as other information, envisaged by part 2 of this article, that became known to:

- 1) a professional participant of capital markets and organized commodity markets in the process of client service while conducting professional activities on capital markets and organized commodity markets
- 2) third parties in the course of their activities related to capital markets and organized commodity markets
- 3) third parties providing services or performing work in accordance with the contracts concluded with the entities specified in paragraphs 1 and 2 of this part
- 4) the NSSMC, the NBU, and other government authorities according to their powers.

Professional secrecy, in particular, is information and data:

- 1) on client accounts
- 2) on transactions conducted in favor of or on behalf of the client of a professional participant, on transactions conducted by the client of a professional participant
- 3) on the client of a professional participant, except for the information received from public sources
- 4) contained in the depository accounting system
- 5) contained in the clearing accounting system
- 6) reporting data of the capital markets' participant and the organized commodity markets' professional participant, except for those subject to publication according to the legislation
- 7) on the means used by a professional participant of capital markets and organized commodity markets and the entities performing activities related to capital markets and organized commodity markets to protect information
- 8) on capital markets' participants and organized commodity markets' professional participants or their clients, received by government authorities from such participants and professional participants

9) on professional participants of capital markets and organized commodity markets, their clients, transactions conducted by them, received by the NSSMC from the regulator of capital markets and organized commodity markets of another state in accordance with an international agreement or based on the principle of reciprocity.

The provisions of this article are not applied to the information subject to disclosure in accordance with the requirements of the Law *On Capital Markets* from the moment of disclosure of such information.

The NSSMC issues regulatory legal acts on storage, protection, use and disclosure of the information which is professional secrecy.

Article 135 of the Law *On Capital Markets* sets the requirements for professional secrecy on capital markets and organized commodity markets, in particular, the persons specified in Article 134 part one of the Law *On Capital Markets*, who became aware of the information constituting professional secrecy, are obliged to ensure its preservation by:

- 1) restriction of the number of persons who have access to the information that is professional secrecy
- 2) organization of special record keeping for the documents containing professional secrecy
- 3) use of technical means to prevent unauthorized access to electronic and other storage devices
- 4) application of warnings on the preservation of professional secrecy and establishment of accountability for its disclosure in contracts and agreements.

Officials, employees of the entities referred to in Article 134 part one of the Law *On Capital Markets* are obliged not to disclose or use in their own interests or in the interests of third parties the information that is professional secrecy and became known to them while performing their duties. Upon taking office, appointment, conclusion of the relevant agreement, the mentioned persons sign the obligation to preserve professional secrecy.

Professional participants of capital markets and organized commodity markets, while performing their professional activities, or government authorities, legal entities and individuals, while performing their functions specified by law, which directly or indirectly received the information constituting professional secrecy in the manner prescribed by law are obliged to ensure preservation of such information, not to disclose or use it in their own interests or in the interests of third parties.

The persons which are guilty of violating the information disclosure procedure and using the professional secrecy shall be liable under the law.

The persons which are guilty of disclosing and/or using the information constituting professional secrecy in their own interests or in the interests of third parties which has caused damage to a capital markets' participant or an organized commodity markets' professional participant or its client shall be obliged to reimburse the damage and moral damage in accordance with the law.

37. Which provisions exist with regard to the exchange of information with supervisory authorities of third countries?

Insurance

The NBU's respective powers are regulated by provisions of Article 32. *Cooperation with International Organizations, Public Authorities, and Nongovernmental Organizations of Foreign States* of Law *On Financial Services*.

Thus, the NBU shall have the right, within the framework of international cooperation, to share and obtain:

nonrestricted supervisory information on financial markets and institutions on the grounds of reciprocity

information on individual financial institutions' operation in cases and according to the procedure set in respective international agreements of Ukraine as well as interagency agreements.

The NBU shall have the right to use the restricted information received from international organizations, public authorities, and nongovernmental organizations of foreign states only within its mandate and for the tasks set out in or resulting from this Law. The restricted information obtained by the NBU from international organizations, public authorities, and nongovernmental organizations of foreign states can be transferred to third parties subject to prior consent of the organization (authority) that provided the information, or under other conditions established by that organization (authority).

Under Law No. 79-IX, the NBU became responsible for the regulation and supervision of the insurance market. Since 1 July 2020, the NBU has signed Memoranda of Understanding, Cooperation and the Exchange of Information related to Insurance Supervision with the Bank of Lithuania (01.06.2021), the Central Bank of Armenia (28.09.2021), and the Polish Financial Supervision Authority (30.09.2021).

Additionally, according to the Strategy of Ukrainian Financial Sector Development until 2025 the NBU takes measures to ensure accession to the IAIS. Becoming a member of the IAIS will allow the NBU to join the IAIS Multilateral Memorandum of Understanding.

Occupational pensions

According to paragraph 4 sub-paragraph 4 of the Regulation *On the NSSMC* approved by the Decree of the President of Ukraine No. 1063/2011 dated 23 November 2011, the NSSMC preforms international cooperation with relevant authorities and non-government organizations of foreign countries as well as international organizations according to the tasks assigned to it in terms of exchange of experience and information related to stock market regulation and corporate governance.

The Commission has concluded Memoranda of Understanding with regulators of other countries in order to establish cooperation, combat the abuse of capital markets, which have become international in nature, exchange information, including Turkey, Egypt, United Arab Emirates, China, the Hashemite Kingdom of Jordan, Georgia, Romania, Kyrgyz Republic, Moldova, Armenia, Azerbaijan, Kazakhstan, Malta, Vietnam, Belarus, and Poland.

38. Does the supervisory authority publish an annual report? Could it provide the Commission with translated a copy or a summary of the report? What are the powers of intervention in case of insolvency, abuses of authorisation?

Insurance

The NBU publishes the information on its official website on an annual basis in the manner prescribed by the NBU. The NBU's annual reports are available at: https://bank.gov.ua/en/publications?page=1&perPage=5&search=&document=&pubCategory=1&keywords=&created_from=&created_to=.

In accordance with the Law *On Financial Services* the NBU supervises the activities of financial services market participants (except clients), in particular insurers (Article 20).

Under Article 28 of the Law *On Financial Services*, as part of its mandate to regulate the markets for nonbank financial services, which mandate is defined by part one of Article 21 of this Law, the NBU shall, in particular:

1. develop and approve legislative acts and regulations that are obligatory for implementation by central and local executive authorities, local self-government authorities, participants of financial services markets, and their associations, and control their implementation
2. establish mandatory criteria and standards of capital adequacy and solvency, liquidity, profitability, asset quality and risk of operations (asset risk), compliance with the rules of financial services and other indicators and requirements that limit the risks of transactions with financial assets
3. supervise (control) the compliance by nonbank financial institutions, as well as entities that are not financial institutions but that have the right to provide certain financial services, with the terms of carrying out activities for the provision of financial services
4. if a violation of legislation on financial services (except for the legislation regulating activities in the securities and derivatives markets, professional activities in the stock market and activities in the funded pension system) occurs, or a violation of NBU regulations takes place, the NBU has the right to apply corrective measures and impose administrative penalties
5. send to financial institutions, and self-regulatory organizations, binding orders to eliminate violations of legislation on financial services and protection of the rights of consumers of financial services and the require to provide the necessary documents
6. send materials to law enforcement authorities regarding the occurrence of offenses that became known during inspections
7. require the convening of an extraordinary meeting of participants of the financial institution
8. establish the conditions and procedure for conducting internal audit (control) in financial institutions.

Article 29 of the Law *On Financial Services* sets out the principles for the NBU in supervising markets of NBFIs, including insurers.

Under Article 29 of the Law *On Financial Services*, the NBU, within its powers, shall supervise activities in nonbank financial services markets in the form of offsite supervision and inspections pursuant to this Law and NBU regulations. The main areas of NBU supervision in the field of state regulation of nonbank financial services markets are regular assessment of the overall financial standing of the nonbank financial institution, its performance, and quality of corporate governance,

system of internal control (audit) and risk management, compliance with regulatory ratios and other indicators and requirements limiting risks of financial assets. The NBU, within its mandate for state regulation of markets of nonbank financial services, is entitled to request in writing from nonbank financial institutions and legal entities other than financial institutions that are entitled to provide certain financial services to submit copies of documents and written explanations related to their activities.

Under article 39 of the Law *On Financial Services*, in the event that laws and other regulations regulating activities related to provision of nonbank financial services are violated, the NBU, within its powers, shall have the right to apply corrective measures, as prescribed by law. The NBU shall choose and apply corrective measures based on analysis and information as regards violation, taking into account the effects of the violation and the effects of applying such corrective measures.

Article 39 of the Law *On Financial Services* provides for the list of corrective measures, which the NBU shall have the right to apply to insurers within its powers in the field of state regulation of markets of nonbank financial services:

1 oblige the violator to take measures to eliminate the violation and/or take measures to eliminate the reasons that contributed to the commission of the violation

2 require the convocation of an extraordinary meeting of financial institution participants

3 impose fines in the amount prescribed in Article 41 of this Law

4 temporarily suspend or revoke (cancel) the license to carry out activities on the provision of financial services

5 suspend top managers of a financial institution and assign provisional administration

6 approve a plan for restoring the financial institution stability

7 exclude, in accordance with the legislation, participants in financial services markets (other than clients) from the State Register of Financial Institutions or the register of entities that are not financial institutions, but have the right to provide certain financial services

7-1 enter into a written agreement with a financial institution, an entity that is not a financial institution, but has the right to provide certain financial services, under which such entity undertakes to pay a certain monetary obligation and/or take measures to eliminate and/or prevent further violations, improve the financial condition of the financial institution, improve the efficiency of the risk management system, etc.

The NBU has the authority to apply other corrective measures provided for in this part for nonperformance or improper performance of the terms of the written agreement by the financial institution or the entity that is not a financial institution, but has the right to provide certain financial services

8 set increased economic ratios, limits, and restrictions on conducting certain types of transactions for nonbank financial groups.

If the violation and its consequences are eliminated by the violator on his own prior to the application of corrective measures, except for the cases provided for in Article 41 of the Law *On Financial Services*, the NBU shall not apply corrective measures for such violation.

2. The procedure and conditions for the application of corrective measures in the field of state regulation of activities in the markets of nonbanking financial services (except for the one specified in Article 21 part one indent two of this Law) shall be established by the laws of Ukraine and the regulations of the NBU.

Regulation *On Corrective Measures* establishes the procedure and conditions for the NBU to impose corrective measures (sanctions) in the area of state regulation of activities in the nonbank financial services markets for violation of laws and regulations regarding the provision of nonbank financial services. The NBU chooses and imposes corrective measures that are adequate to violations of laws on financial services and with consideration to the nature and circumstances of committing the violations, their causes and consequences.

In view of the above, we inform you on the performance of the NBU's supervision of insurers in 2021.

In 2021, the number of companies that were in breach of solvency and capital adequacy requirements declined gradually, to 16 companies as of 1 October 2021.

In 2021, the NBU continued to implement the risk-based supervision of nonbank financial market participants. All 100% of the country's nonbank financial institutions were under permanent offsite supervision. By the end of 2021, 155 insurers were being supervised.

The supervision resulted in insurers' activities being less risky in 2021, which was proved by the regular annual assessment of the social significance and risk profiles of insurers, the promising dynamics of a declining number of the entities violating requirements, and a significant decrease in the overall deficit of capital needed to meet solvency requirements.

In order to attain such results, the NBU regularly analyzed the financial standings of insurers on both reporting and interim dates, if it detected high risks in the activities of supervised entities. The NBU registered 218 violations in the course of carrying out off-site supervision, specifically:

- 81 violations of regulatory ratios

- 111 violations due to failure to submit/untimely submission/submission of inaccurate information

- 26 violations due to failure to comply with NBU decisions.

On the insurance market, insurers' compliance with requirements improved markedly thanks to prudent actions taken throughout the year. In particular, 97% of licensed insurers began to meet solvency requirements and financial ratios. Only 15 insurers violated at least one ratio, down from 56 insurers a year ago.

Based on the violations detected, the NBU applied 130 corrective actions to insurers, in particular:

- 29 requirements to eliminate violations

- 27 licenses suspended

- 6 licenses cancelled

- 68 fines

Findings of the off-site supervision of financial standing, asset quality, and capital adequacy of supervised entities were the grounds for 17 inspections of insurers.

As last year, companies that were dormant and surrendered their licenses on a voluntary basis, and which were then excluded from the State Register of Financial Institutions, continued to exit the nonbank financial services market. At the same time, the number of nonbank financial institutions excluded from the register based on the NBU's supervisory activities remained high. Over the year, the number of insurers declined by 55 companies, of which six companies held life insurance licenses.

Among them, only 11 insurers were taken off the State Register of Financial institutions based on their applications, while 44 companies were excluded at the NBU's initiative after it revoked all of their licenses.

The companies that lost their licenses included 10 insurers registered in the temporarily occupied territories of Donetsk and Luhansk oblasts and Crimea.

Almost all insurers that had their licenses cancelled at their request confirmed that they had no insurance obligations and valid insurance/reinsurance agreements as of the date when they applied to the NBU for their licenses to be cancelled.

As of 30 September 2021, the situation with insurers' compliance with solvency requirements and key financial ratios was as follows:

- among the licensed insurers, 90% met the solvency requirements and financial ratios
- the insurers with available solvency margin less than the required level have exited the market voluntarily or have been removed from the market
- the number of insurers failing to comply with prudential ratios (the solvency and capital adequacy requirements or the asset risk ratio) fell: as of 30 September 2021, only 15 insurers had violated at least one ratio (as of the same date of the previous year, the figure was 56 insurers, meaning it declined 3.7 times yoy).

Since the launch of SPLIT reform, the number of companies in violation of the solvency and capital adequacy ratios has decreased by almost three-quarters, while shortages of eligible assets have declined sevenfold.

Compliance with the asset risk ratio was even better: the number of violators decreased sixfold, to four insurers, while asset shortages declined more than 100-fold.

Occupational pensions

In accordance with the Law *On State Regulation of Capital Markets*, the NSSMC informs the public about its activities and the state of development of the securities market, publishes and provides information on request according to the Law of Ukraine No. 2939-VI *On Access to Public Information* dated 13 January 2011 (hereinafter – the Law *On Access to Public Information*).

The NSSMC publishes Annual reports on the NSSMC's official website (<https://www.nssmc.gov.ua/en/document/?id=12530000>).

The NSSMC's annual report covers various aspects of the state regulation of capital markets and organized commodity markets, in particular: regulation of corporate governance, financial monitoring, licensing of professional activities on capital markets and organized commodity markets, supervision, control, law enforcement with regard to capital markets' and organized commodity markets' participants.

Description of the NCSSM's powers of intervention in case of insolvency, abuses of authorization is provided in questions 85 and 86.

39. How is the operational independence of the supervisory authority ensured, in line with international standards and the International Association of Insurance Supervisors - (IAIS) core principles)?

The NBU's operational independence in accordance with the ICP 2 Supervisor standard of the IAIS is achieved as follows:

Regulatory framework – The NBU carries out state regulation and supervision on an individual and consolidated basis for insurance activities, performs the functions within the powers stipulated in *Law On the National Bank*, *Law On Financial Services*, *Law On Insurance*.

The legislation stipulates that the NBU is the central bank of Ukraine, a special central body of the state administration (Article 2 of the *Law On the National Bank*), and any interference of the public authorities, other public institutions or their officials, any legal entities or individuals in the exercise of its functions and powers (as well as those of the NBU Council, the NBU Board, or NBU employees) shall be prohibited (Article 53 of the *Law On the National Bank*). The NBU shall be accountable to the President of Ukraine and the Verkhovna Rada of Ukraine within their constitutional authority (in terms of appointment and dismissal of the NBU Governor, members of the NBU Council) (Article 51 of the *Law On the National Bank*).

Transparency and security – The *Law On the National Bank* defines the composition and procedure for forming and operating the NBU Board and its committees, appointing officials, defining responsibilities and powers, dismissing the NBU Governor, their deputies, members of the NBU Board (Articles 16-20 of the *Law On the National Bank*). The powers and procedure for operating the supervisory body of the NBU – the NBU Council – are defined by Articles 8 - 13-1 of the *Law On the National Bank*.

The NBU shall ensure legal protection (in the case of lawsuits or engagement in administrative or criminal proceedings) of members of the NBU Board, other NBU officials, members of the NBU Council, experts involved, who are not responsible for any action or inaction if they acted on the basis of and within the powers.

The NBU declares transparency as one of its basic principles and informs the public about its activities by publishing relevant information (financial statements by the NBU, annual reports by the NBU, a list of insurance market participants, financial statistics of insurance market participants, general information on measures taken in relation to market participants, etc.) on its official website and in the NBU's official publications.

Carrying out its legislation-related activity, the NBU annually publishes a plan for the development of regulatory acts, draft regulations, reports on basic, regular and occasional monitoring of the effectiveness of regulatory acts, conducts regular meetings with insurance market representatives to discuss challenges on the market, processes feedback on published draft regulations, etc.

However, insurance market participants may appeal in court against decisions (regulations or individual acts), action or inaction of the NBU, its officials and representatives (Article 74 of the Law *On the National Bank*).

Resources – The NBU is an economically independent body that carries out expenditures at the expense of its own revenues (Article 4 of the Law *On the National Bank*), and has sufficient resources of qualified experts to ensure effective regulation and supervision on the insurance market.

Confidentiality – The NBU, while supervising the insurance market, shall ensure information confidentiality under the Law *On Insurance* (Article 40) and share best practices and information related to insurance supervision with international organizations and relevant insurance supervisory authorities of other states, and organizations (associations) of insurance supervisory authorities in accordance with memoranda of cooperation (Article 46 of the Law *On Insurance*).

Conditions of admission and licensing

40. Which conditions are required of new insurance companies by law before taking up the business of direct insurance? In particular, what are the requirements regarding:

- a) prior authorisation;**
- b) schemes of operations / soundness of business plan;**
- c) suitability of shareholders / owners;**
- d) limiting itself to the business of insurance;**
- e) legal form;**
- f) needs test?**

a) prior authorisation

To obtain a license of providing insurance, a legal entity shall acquire a status of a financial institution in line with the Law *On Financial Services*.

According to Article 38 of the Law *On Insurance* the Authorized Body (NBU) shall issue to insurers the licenses to conduct specific types of insurance according to the procedure established by the Ukrainian legislation.

Procedure for issuing a license to provide insurance services is specified by Regulation No. 153.

In accordance with Article 11 of the newly passed Law of Ukraine No. 1909-IX *On Insurance* dated 18 November 2021, the main provisions of which take effect on 1 January 2024, a legal entity

acquires a status of an insurer and the right to provide insurance services only after obtaining a license to provide insurance services (hereinafter – the License) issued by the Regulator (NBU).

Providing insurance services without a License is prohibited, unless otherwise is specified by this Law. The License is issued taking into account specifics and/or restrictions on a respective insurance class defined by the laws of Ukraine and requirements stipulated by this Law.

b) schemes of operations / soundness of business plan

Section II Chapter 5 paragraph 72 of Regulation No. 153 stipulates that a business plan of entities that apply to the NBU to acquire a status of an insurer shall comply with the requirements of this Regulation. The business plan shall be based on actual data excluding any assumptions and estimations that cannot be confirmed with calculations (in line with Section VII Chapter 48 paragraph 405 hereof).

In accordance with Section VII Chapter 48 paragraph, the business plan shall comply with the following requirements:

1) a business plan shall contain information on:

a) an applicant as of the date when they submit the package of documents (material and technical base, personnel, structural units, intangible assets, participation in other legal entities)

b) business environment of an applicant (market research, competitors) considering a bank's geography of business activity

c) business development of an applicant (goal, tasks)

d) business model of an applicant (general procedure for providing financial services, the use of trademarks and websites when providing financial services, the purpose of engagement of third parties in provision of financial services, potential financial services consumers, the pricing policy)

e) specialization of an applicant on the nonbank financial services market (SWOT analysis, competitive position)

f) applicant's business spending intentions [material and technical base and software (computers, accounting and registration systems, other equipment and software required for providing financial services and reporting to the NBU), premises (owned or leased), staff management, advertising, use of trademarks and websites]. Spending intentions of an applicant are planned for each year separately, taking into account favorable and adverse scenarios of the applicant's business activity

g) applicant's financial plan (estimations for a balance sheet and financial performance for each of the next three financial year detailing income and expenses items) supplemented with analysis of favorable and adverse scenarios including justification for assumptions on such estimations supplemented with explanations on material deviations

h) adverse scenario factors and mitigation measures

i) applicant's financing plan [information on financing needs, increase in authorized (paid-in) capital, amount of financing, terms, and sources of such funds]

j) plan of an applicant and/or owners of qualifying holding in an applicant to establish other legal entities and/or acquire shares/assets of other legal entities. If such intentions exist, they shall include a description of the impact on activity and financial position of an applicant.

k) intentions of selling the business or changing the owners of a qualifying holding in the applicant/appearance of new owners of a qualifying holding in the applicant

2) a business plan shall be approved by the highest management body and signed by the applicant's top manager

3) all financial and economic performance indicators in a business plan shall be calculated for the current year (at the beginning of the year it is submitted to the NBU) and for the next three years including acceptable risks (favorable and adverse scenarios)

4) a business plan shall be based on actual data excluding any assumptions and estimations that cannot be confirmed with calculations

5) a business plan shall confirm the applicant's ability to generate profits in the next three reporting years in an amount sufficient to meet the requirements of the laws of Ukraine on the regulation of financial services markets.

Article 21 of the (new) Law *On Insurance* defines the obligation of a legal entity that intends to provide insurance services to draw up a business plan for the next three calendar years and the coming quarters of the current year, starting from the first day of the quarter, following the quarter in which the package of documents to obtain a license were submitted to the Regulator (NBU)

The list of information that shall be included in the business plan, requirements to the business plan, the list of supporting documents, and procedure for submitting the business plan (amended business plan), and amendments to it are stipulated by NBU regulations.

Article 13 of the (new) Law *On Insurance* defines that the Regulator (NBU) shall have a right to refuse a license if the applicant's strategy and/or the business plan are ungrounded and/or unrealistic (i.e. based on unrealistic data, including assumptions and estimations that cannot be confirmed with calculations).

c) suitability of shareholders / owners

Section II Chapter 5 paragraph 72 of Regulation No. 153 stipulates that:

1) the business reputation of the key participants, owners of a qualifying holding in the legal entity that applies to the NBU to acquire the status of an insurer/insurer shall comply with the laws of Ukraine and Regulation No. 153

2) financial/property standing of participants, who made contributions to the authorized (paid-in) capital of the legal entity that applies to the NBU to acquire the status of an insurer, irrespective of the size of paid-in capital, and all owners of a qualifying holder in the entity that applies to the NBU to acquire a status of insurer/insurers shall comply with the laws of Ukraine and Regulation No. 153.

In line with Article 9 part twelve of the Law *On Financial Services*, owners of a qualifying holding in a financial institution or a nonfinancial entity authorized to provide individual financial services, shall have impeccable business reputation and comply with all other requirements

established by regulations of authorities that perform the state regulation of financial services markets.

At the same time, pursuant to Article 10 of the (new) *Law On Insurance*:

1. Participants in an insurer shall not be legal entities, where the insurer owns a qualifying holding, nor public associations, political parties, religious and charitable organizations.
2. The CMU or its authorized bodies can be participants in an insurer on behalf of Ukraine.
3. Founders or owners of qualifying holding in an insurer shall have an impeccable business reputation and a satisfactory financial/property standing.

Requirements to the business reputation, financial/property standing of the founders of an insurer and owners of qualifying holding in an insurer, procedure for their assessment shall be set by the regulations of the Regulator (NBU).

Pursuant to Article 12 of the (new) *Law On Insurance* the documents submitted by the legal entity intending to provide insurance services (hereinafter – the applicant) to obtain a license include:

1) documents and information to identify and assess the business reputation of the founders (if the founder is a legal entity, then also that of the business reputation of the members of the executive body and/or supervisory board thereof), as well as of all the persons through which the indirect ownership of the qualifying holding in the applicant.

2) documents and information to assess: the financial standing of the founder being a legal entity, of the founder being an individual, and of all entities/individuals which will indirectly own a significant share in the applicant.

Article 13 of the (new) *Law On Insurance* stipulates that the Regulator (NBU) shall have a right to refuse a license if the business reputation of the founder (if the founder is a legal entity, then also that of the business reputation of the members of the executive body and/or supervisory board thereof) or at least one person who indirectly owns a qualifying holding in the applicant, does not comply with requirements set by the Regulator's (NBU's) regulations, and if the financial/property standing of the founder being the legal entity and/or financial/property standing of the founder being an individual, and/or the financial/property standing of at least one person who indirectly owns a qualifying holding in the applicant does not comply set by the regulations of the Regulator (NBU).

d) limiting itself to the business of insurance

In line with Article 2 of the *Law On Insurance*, insurers can only engage in insurance, reinsurance and financial activities related to formation, placement, and management of insurance reserves.

It is permitted to provide the abovementioned services to other insurers under concluded civil law contracts, perform works if they are directly connected to such activities, and conduct any operations intended to meet the insurer's business needs. Insurers that provide life insurance can issue loans to insurers who concluded life insurance agreements.

Article 38 of the *Law On Insurance* also stipulates that insurers who received a license to conduct life insurance have no right to conduct any other type of insurance.

Pursuant to Article 3 part six of the (new) Law *On Insurance*, the exclusive lines of insurer's business include insurance, including provision of guarantees in line with Article 11 part four of the Law, and provision of auxiliary services on the insurance market.

Insurers can also engage in business activities to meet their own needs, taking into account restrictions established by the Law.

According to Article 11 of the (new) Law *On Insurance*, an insurer cannot simultaneously be licensed to provide both non-life insurance and life insurance. At the same time, an insurer, who was licensed to provide life insurance, can be licensed to provide insurance under insurance classes 1 (Accident) and/or 2 (Sickness).

e) legal form

In line with Article 2 of the Law of Ukraine *On Insurance*, insurance companies authorized to provide insurance services in Ukraine are as follows:

financial institutions incorporated as joint-stock companies, full liability companies, limited partnerships or additional liability companies – in line with the Law of Ukraine No. 1576-XII *On Economic Partnerships* dated 19 September 1991, considering that each financial institution should have at least three participants, and other specifics covered by this Law – and that received a license according to the set procedure to provide insurance

registered by the Authorized Body (NBU) in line with this Law and Ukrainian laws – as permanent representative offices in the form of branches of foreign insurance companies that were granted a license to provide insurance according to the established procedure.

In line with Article 8 of the (new) Law *On Insurance*, insurers in Ukraine shall be incorporated as joint stock companies or additional liability companies (except for nonresident insurer branches).

f) needs test?

The laws do not establish requirements for needs assessment by insurers. As noted in the response to question 40 b) above, an insurer shall submit a business plan to the NBU that must contain the information on the business environment of an applicant (market research, competitors) considering a bank's geography of business activity.

41. What are the rules applicable to insurance intermediaries operating? What conditions do they have to fulfil before they may take up their business (e.g. registration, tests, professional requirements)?

Current regulation:

The legal framework for intermediary business practices in insurance are set out in Article 15 of the Law *On Insurance*. Insurance and reinsurance brokers and insurance agents are insurance intermediaries.

Insurance agents act on behalf and upon instruction of an insurer and perform part of the insurance activities (conclude insurance agreements, receive insurance premiums, perform work related to making insurance payments and insurance payouts). Insurance agents represent an insurer and act for remuneration on the insurer's behalf based on the agency agreement concluded with the insurer. No requirements to a separate registration, qualification, and training of such insurance agents have been set out.

As far as the insurance and reinsurance brokers are concerned, in line with Article 15 of the Law *On Insurance*, before starting the intermediary business, they are required to register with the state register of insurance and reinsurance brokers in accordance with the requirements established by the supervisory authority (qualification requirements to professional skills of the broker (broker's manager) confirmed by the qualifying exam, requirements to maintain separate current accounts for transactions under insurance (reinsurance) agreements and business transactions).

Requirements to intermediary business activities of insurance and reinsurance broker were expanded by adding an updated list of types of intermediary services, requirement to disclose information to customers on their website, and fit and proper requirements to a broker that will be set forth in the respective NBU regulation (the draft regulation has already been published on the NBU's website).

Future regulation:

To fulfill Ukraine's obligations to implement the EU laws, including Directive 2016/97 (IDD), the Verkhovna Rada of Ukraine adopted the new Law of Ukraine *On Insurance* (No. 1909) dated 18 November 2021, which goes into effect on 1 January 2024 (the regulations on the operation of insurance intermediaries take effect on 1 January 2025). The new Law contains the updated requirements to the operation of insurance intermediaries (Section XII). Insurance agents, additional insurance agents, insurance and reinsurance brokers will be able to sell insurance and reinsurance products only after being registered with the Register of insurance intermediaries and are required to comply with the fit and proper requirements. The Law also sets out requirements to training and professional development of insurance intermediaries (training before starting their activities and every three years afterwards) and providing guarantees of their professional activity (by concluding an agreement on the liability of the insurance intermediary, maintaining two separate accounts for business and insurance intermediary activities).

As far as the operation of nonresident insurance intermediaries is concerned, in line with the current and amended laws, they can operate in Ukraine based on the applications. No additional requirements to their fitness and propriety have been established.

Conditions of operation

42. What is the definition of solvency margin?

Current regulation (in accordance with the Law On Insurance):

The applicable Law *On Insurance* requires that available solvency margin of the insurer exceed the estimated required solvency margin to ensure the solvency of the insurer. Both these indicators are set out in Article 30 of the Law *On Insurance* and are a simplified interpretation of the ‘Available solvency margin’ and ‘Required solvency margin’ of the EU Directives preceding Directive 2009/138/EC (Solvency II). At the level of the law, there is no definition of ‘solvency margin’, but solvency margin means the difference between available solvency margin and required solvency margin.

Besides, insurers must comply with required criteria and capital adequacy, solvency, liquidity, profitability, asset quality, and risky transaction indicators of the insurer as set out in Ordinance No. 850 dated 7 June 2018 of the National Commission for the State Regulation of Financial Services Markets in charge of state regulation of the financial services markets.

Before the martial law was introduced in Ukraine, the NBU intended to improve requirements of the Ordinance, in particular to harmonize the definition of the ‘available solvency margin’ and ‘required solvency margin’ to ‘Available solvency margin’ and ‘Required solvency margin’ prescribed in the EU Directives preceding Directive 2009/138/EC (Solvency II).

Future regulation (in accordance with the (new) Law *On Insurance*):

The (new) Law *On Insurance* was drafted based on Directive 2009/138/EC (Solvency II) and prescribes definitions of ‘SCR’, ‘MCR’, and ‘eligible own funds’ in line with the Directive for insurers, which will be required to comply with requirements for application of this Directive with certain adaptations to the Ukrainian insurance market starting from 1 January 2027. For other insurers, the rules for compliance with solvency requirements will remain in line with the “first” EU Directives, which will be established in the relevant NBU regulation (the draft regulation has already been published on the NBU’s website¹⁰).

43. What are the minimum levels of capital / minimum guarantee fund?

Current regulation:

Before 1 January 2024, the minimum authorized capital (security deposit) of a nonlife insurer is set at EUR 1 million in equivalent, and for a life insurer – EUR 10 million in equivalent according to the hryvnia exchange rate (such requirements are applicable to companies that intend to acquire the status of a financial institution and receive an insurance license, since 16 May 2013). This is prescribed by Article 30 of Law *On Insurance*.

At the same time, in order to comply with the solvency and capital adequacy ratios, the following minimum indicators of acceptable assets are set: UAH 30 million for a nonlife insurer, and UAH 45 million for a life insurer. Besides, insurers must comply with required criteria and capital adequacy, solvency, liquidity, profitability, asset quality, and risky transaction indicators of the insurer as set out in Ordinance No. 850 dated 7 June 2018 of the National Commission for the State

¹⁰ <https://bank.gov.ua/ua/news/all/obovyazkovi-normativi-dlya-strahovikiv-suttyevo-onovlyuyutsya--startuye-gromadske-obgovorenniya>

Regulation of Financial Services Markets in charge of state regulation of the financial services markets.

Future regulation:

As of 1 January 2024, in line with the (new) Law *On Insurance*, with key provisions entering into effect on 1 January 2024, the authorized capital of the insurer shall not be less than the minimum capital of the insurer, meaning it cannot be less than the following absolute values:

1) UAH 32 million for an insurer that was granted a direct business license for one or more nonlife insurance classes, save for insurance classes set out in paragraph 2

2) UAH 48 million for an insurer that was granted a direct business license for one or more insurance classes, such as 10 (Motor vehicle liability), 11 (Aircraft liability), 12 (Liability for ships (sea, lake and river and canal vessels), 13 (General liability), 14 (Credit), 15 (Suretyship). This condition does not cover direct business for insurance class 13 (General liability), provided the insurance license prescribes restrictions and/or specifics for this class set out by regulations of the NBU that can authorize application of a simplified approach to estimating capital, solvency, and minimum capital

3) UAH 48 million for an insurer that was granted a direct business license for one or more life insurance classes

4) UAH 48 million for an insurer with a license on assumed reinsurance, provided that during a calendar year the gross premium on assumed reinsurance agreement exceeds 10 percent of the gross insurance premium or exceeds UAH 7 million.

44. What are the rules for investing funds of an insurance company (e.g. diversification, limits on the amounts)?

Current regulation (in accordance with the Law On Insurance):

Article 13 of the effective Law *On Insurance* sets the list of assets eligible for investment to cover insurance reserves.

Regulation regarding required criteria and capital adequacy, solvency, liquidity, profitability, asset quality, and risky transaction indicators of the insurer approved by Ordinance No. 850 dated 7 June 2018 of the National Commission for the State Regulation of Financial Services Markets, for the purpose of complying with criteria of risky transactions, liquidity, solvency, and asset quality of the insurer, the Regulation prescribes regulatory indicators, as well as the list, scope, and restrictions on assets of insurers that can comply with said ratios. Limits on restrictions are applied to individual categories (types) of assets and to investment of said assets in one legal entity (including securities issuer or bank).

Before martial law was introduced in Ukraine, the NBU intended to improve requirements of the said Regulation and the relevant draft regulation has already been published on the NBU's website¹¹.

¹¹ <https://bank.gov.ua/ua/news/all/obovyazkovi-normativi-dlya-strahovikiv-suttyevo-onovlyuyutsya--startuye-gromadske-obgovorenniya>

The requirements for the assets to be accepted to cover insurance reserves in the draft of the new regulation were as follows:

1) cash on current accounts, bank deposits (deposits) and funds on escrow accounts - together not more than 90% of insurance reserves

2) real estate - not more than 20% of insurance reserves, while investing in one real estate object - not more than 10% of insurance reserves. There are also additional requirements for the valuation of such real estate.

3) securities on the list below - together not more than 40% of insurance reserves, of which:

shares of Ukrainian issuers - not more than 3% of insurance reserves

corporate bonds of Ukrainian issuers - for an insurer that provides life insurance - not more than 40% of insurance reserves, and for an insurer that provides non-life insurance - not more than 30% of insurance reserves

shares, bonds of foreign issuers and securities of foreign countries - for an insurer that provides life insurance - not more than 20% of insurance reserves, and for an insurer that provides non-life insurance - not more than 10% insurance reserves

bonds of international financial organizations - not more than 40% of insurance reserves

domestic local bonds - not more than 10% of insurance reserves

4) government bonds of Ukraine - for an insurer that provides life insurance - not more than 95% of insurance reserves, and for an insurer that provides non-life insurance - not more than 80% of insurance reserves

5) claims against reinsurers (reinsurers' share in insurance reserves):

in reported but not settled (RBNS) claims reserve - 100%

in unearned premium reserve under concluded reinsurance contracts for risks under certain types of insurance, provided that such reinsurer conducts insurance and / or reinsurance activities in the relevant type of insurance for at least 10 years - 100%

under the concluded agreements of reinsurance of liability of the operator of a nuclear installation for nuclear damage that may be caused as a result of a nuclear incident, and reinsurance of other risks associated with nuclear insurance facilities - 100%

claims to reinsurers in insurance reserves other than those specified in this paragraph - not more than 50% of insurance reserves for the relevant types of insurance, taking into account the following:

claims to resident reinsurers - not more than 10% of insurance reserves

claims to non-resident reinsurers for an life insurers - not more than 40% of insurance reserves

6) loans to policyholders - individuals - in total not more than 20% of life insurance reserves

7) cash on hand in the amount of not more than 3% of insurance reserves

8) balances of funds paid by the insurer to the centralized insurance reserve funds of the Motor (Transport) Insurance Bureau of Ukraine in accordance with the Law on Compulsory Insurance, in the amount not exceeding the amount used exclusively for such insurer to fulfill obligations under concluded contracts insurance (reinsurance) of civil liability of owners of land vehicles.

Limits on different categories of assets were set taking into account the current state of development and regulation of the market, in which instruments are allowed to invest funds to insurers, as well as the safety, quality and liquidity of such assets with the prospect of changing.

The list of assets accepted to meet solvency requirements (determination of regulatory capital) in addition to assets accepted to cover insurance reserves also includes overdue receivables from insurance and reinsurance activities with limits that become smaller depending on the term of such receivables.

Also, when determining the amount of regulatory capital, there are no limits on each group (kind) of assets, and there are limits on the concentration of assets in one entity / one object:

1) in one entity, in the amount not exceeding:

30% of the amount of the solvency and capital adequacy ratio and the total amount of the insurer's liabilities - for eligible assets, except for balances in the centralized insurance reserve funds of the Motor (Transport) Insurance Bureau of Ukraine and government securities, and

10% of the total amount of the solvency and capital adequacy ratio and the total amount of the insurer's liabilities - for eligible assets, except for balances in the centralized insurance reserve funds of the Motor (Transport) Insurance Bureau of Ukraine, government securities, reinsurers' share in insurance reserves and cash, placed in banks

2) in one real estate object in the amount of not more than 10% of the amount of the solvency and capital adequacy ratio and the total amount of the insurer's liabilities

3) in related undertakings to the insurer in the amount of not more than 10% of the total amount of equity and liabilities of the insurer.

Future regulation (in accordance with the (new) *Law On Insurance*):

The (new) *Law On Insurance* draft is based on Directive 2009/138/EC (Solvency II) expands the NBU's mandate on setting requirements to insurer's investments.

45. What are the rules relating to distance marketing of insurance contracts?

Remote sale of insurance agreements is regulated by:

Voluntary insurance rules

effective Law of Ukraine No. 2664-III *On Financial Services and State Regulation of Financial Markets* dated 12 July 2001 (new Law of Ukraine No.1953-IX *On Financial Services and Financial Companies* dated 14 December 2021 enters into effect on 1 January 2024)

effective Law of Ukraine No. 85/96-VR *On Insurance* dated 7 March 1996 (new Law of Ukraine No. 1909-IX *On Insurance* dated 18 November 2021, key provisions enter into effect on 1 January 2024)

Law of Ukraine No. 851-IV *On Electronic Documents and Electronic Document Flow* dated 22 May 2003

Law of Ukraine No. 2155-VIII *On Electronic Trust Services* dated 5 October 2017

Law of Ukraine No. 675-VIII *On Electronic Commerce* dated 3 September 2015.

Article 981 of the Civil Code of Ukraine provides that an insurance contract must be executed in written form. Under Article 207 part 1 of the Civil Code of Ukraine, the deal is considered to be executed in written form if its content is recorded in one or several documents (including electronic ones), in letters and/or telegrams that parties exchanged.

Article 639 of the Civil Code of Ukraine says that a contract may be entered into in any form if a specific form of the contract is not required by the law. If the parties agreed to execute a contract in a certain form, the contract shall be deemed to have been executed since the moment it have taken on this form, even if this form was not required by the law for this type of contracts.

Article 6 part two of the Law *On Financial Services* specifies that a financial service contract (except for currency valuables trading and money transfer services, if the respective deals are fulfilled by the parties in full at the moment of their execution and a reporting institution is not required by the law to identify and/or verify a client during these transactions) shall be executed exclusively in written form:

1) as a hard copy (on paper)

2) as an electronic document created in line with the requirements of the Law of Ukraine *On Electronic Documents and Electronic Documents Flow*

3) through joining a contract available for the clients' perusal as an electronic document on the website of an entity providing financial services and/or (in the case if a service is provided through a payment device) on the payment device display used by the entity providing financial services

4) as set forth in the Law of Ukraine *On Electronic Commerce*.

The above Article of the Law *On Financial Services* requires the following:

- a counterpart of a contract executed as a hard copy (on paper) together with all the annexes (if any) must be handed over to a client by the entity providing financial services after a contract has been signed but before starting to provide financial service to a client

- a counterpart of a contract executed as an electronic document together with all the annexes (if any) shall be deemed received by a client if a contract (as previously agreed by an entity providing financial services and a client or as decided by a client) has been sent to a client's electronic address or by other means that allow to ascertain the date when it was sent. A contract executed as an electronic document together with all the annexes (if any) must contain client's details, including contract details provided by them. Provisions of this indent do not apply to the contracts referred to in Article 6 part two paragraph 4 of the Law *On Financial Services*.

- In the case of joining a contract available on a website, the contract shall consist of a public part of the contract and an individual part of the contract, signing whereof by a client means that they join the contract as a whole. A public part of a financial service contract is published and must be available for clients perusal on the website of an entity providing financial services, and a client may choose to receive it in a way that allows to ascertain the date of joining and provide respective contact details to be used for that purpose. All the versions of a public part of a contract must be available at the website of an entity providing financial services, and their validity term must be indicated.

- An individual part of a contract is concluded with a client in written form (as a hard (paper) copy or as an electronic document) and must include terms and conditions referred to in part one of this Article. If an individual part of a contract has been executed as a hard copy (on paper), a counterpart of the contract together with all the annexes (if any) must be handed over to a client after a contract has been signed but before a financial service started to be provided to a client. A counterpart of an individual part of a contract executed as an electronic document together with all the annexes (if any) shall be deemed received by a client if a contract as previously agreed by an entity providing financial services and a customer has been sent to a client's electronic address or by other means chosen by a client that allow to ascertain the date when it was sent. A counterpart of an individual part of a contract executed as an electronic document together with all the annexes (if any) must contain client's details, including contact details provided by them. Provisions of this indent do not apply to the contracts referred to in Article 6 part two paragraph 4 of the Law *On Financial Services*.

- Contracts referred to in Article 6 part two paragraph 4 of the Law of Ukraine *On Financial Services* are executed according to this law and taking into account the specific requirements specified in the Law of Ukraine *On Electronic Commerce*.

- Burden of proving that a counterpart of a contract (amendments to a contract) has been handed over to a client lies with an entity providing financial services.

Also, Article 6 part three of the Law *On Financial Services* specifies that any proposals by an entity providing financial services to a client to change the essential terms of a financial service contract, including of the one executed through joining a contract by a financial services consumer, must be submitted within the period set by a contract and through sending a notice by an entity providing financial services to a client in a way that allows to ascertain the date when such a notice was sent. If the proposals as to the change of terms were sent in any way other than the one that allows to ascertain a date when they were sent to a client, the terms and conditions of such contract must be deemed void. The same applies to a fixed interest rate increase without prior written consent of a client.

Under Article 16 of the Law *On Insurance* an insurance contract is a written contract between an insurer and a policy holder under which an insurer undertakes to pay a benefit (provide assistance, render a service etc.) if it comes to a contingent event to a policy holder or other person specified by a policy holder who is a beneficiary under the insurance contract, and a policy holder undertakes to pay an insurance premium and fulfil other terms of the contract.

Article 16 part four of the Law *On Insurance* and Article 6 part one of the Law *On Financial Services* list all the details that must be included in an insurance contract.

The procedure for execution of electronic documents is set forth in the Law of Ukraine *On Electronic Commerce*. However, according to Article 2 part two of the Law of Ukraine *On Electronic Commerce*, this Law applies to financial services that are governed by separate legal acts only regarding the deals executed in electronic form and without prejudice to the specific legal acts covering financial services.

Information provided to the supervisory authority

46. Which rules apply to insurance companies with regard to the format of the balance sheet, net or gross presentation, acquisition costs (profit and loss accounts), valuation of investments (historical vs. current value), unrealised investment gains?

Insurers prepare financial reporting in line with the following regulations:

1) on financial reporting:

The Law *On Accounting*

Law of Ukraine No. 2258-VIII *On Audit of Financial Statements and Audit Activity* dated 21 December 2017

Resolution of the CMU *On Approval of the Procedure for Submitting Financial Statements* No. 419 dated 28 December 2000

2) on regulatory reporting:

NBU Board Resolution *On Approval of the Rules for the Compilation and Filing of Reports with the National Bank of Ukraine by Nonbank Financial Services Market Participants* No. 123 dated 25 November 2021.

Insurers assessment of assets and liabilities for financial and regulatory reporting in line with international financial reporting standards (save for assessment of insurance reserves for regulatory reporting performed in line with requirements set by the NBU).

Accounting treatment, preparing and submitting financial statements are conducted in line with the Law *On Accounting* prescribing application of International Accounting Standards and International Financial Reporting Standards.

So, the annual financial statements include:

- a) the Statement of Financial Position (balance sheet)
- b) the Statement of Profit or Loss and Other Comprehensive Income
- c) the Statement of Changes in Equity
- d) the Cash Flow Statement
- e) the notes comprising description of material accounting policies and other clarifications
- f) the Management Report.

Annual and interim financial statements of insurers are submitted and based on the IFRS Accounting Taxonomy in a uniform format (iXBRL).

Thus, the balance sheet contains gross indicators of assets and liabilities.

Insurers also submit the balance sheet to the NBU as part of regulatory reporting detailing the following indicators:

I. NONCURRENT ASSETS

Intangible assets

initial cost

accumulated amortization

Construction in progress

Property, plant and equipment

initial cost

depreciation

Investment property

initial cost of investment property

investment property depreciation

Long-term biological assets

initial cost of long-term biological assets

accumulated amortization of long-term biological assets

Long-term financial investments:
treated according to equity method

other financial investments

Long-term receivables

Deferred tax assets

Goodwill

Deferred acquisition costs

Balances of positions centralized insurance emergency funds

Other noncurrent assets

Section I subtotal

II. CURRENT ASSETS

Inventory

Production stocks

unfinished products

finished products

goods

Current biological assets

Reinsurance deposits

Received bills of exchange
Receivables for goods, works, and services
Receivables for settlements:
for issued advances
with budget
including from income tax
Receivables under settlements from accrued income
Receivables under internal settlements
Other current receivables
Current financial investments
Cash and Cash Equivalents
cash
bank accounts
Deferred expense
Reinsurer share in insurance reserves
including in: long-term liabilities provisions
loss provisions or due payment provisions
unearned premium reserves
other insurance reserves
Other current assets
Section II subtotal

III. Noncurrent assets held for sale and disposal groups

BALANCE SHEET

I. EQUITY

Registered capital
paid-in unregistered authorized capital
Revaluation surplus of equity
Additional capital
share premium
cumulative amount of the exchange rate differences
Reserve capital

Retained earnings (uncovered loss)

Unpaid capital

Withdrawn capital

Other reserves

Section I subtotal

II. LONG-TERM LIABILITIES AND PROVISIONS

Deferred tax liabilities

Pension benefit obligations

Long-term bank loans

Other long-term liabilities

Long-term provisions

long-term staff cost provisions

Targeted funding

charitable assistance

Insurance reserves

including: long-term liabilities provisions

loss provisions or due payment provisions

unearned premium reserves

other insurance reserves

Investment contracts

Prize fund

Jackpot fund

Section II subtotal

III. CURRENT LIABILITIES AND PROVISIONS

Short-term bank loans

Issued bills of exchange

Current payables on:

long-term liabilities

goods, works, services

settlements with the budget

including from income tax

insurance settlements

salary payments

Current payables on received advances

Current payables on holders' disbursements

Current payables on internal settlements

Current payables on insurance

Current provisions

Unearned revenue

Unearned reinsurer fee and commission income

Other current liabilities

Section III subtotal

IV. Liabilities on noncurrent assets held for sale and disposal groups

V. Net assets of the private pension fund

BALANCE SHEET

There are no rules for disclosing acquisition expenses in reporting statements (financial or regulatory), definition of cost categories that should be recognized as acquisition expenses, requirements to allocation on types of insurance or how to perform accounting treatment. Instead, other types of regulatory reporting contain indicators for disclosing information on acquisition expenses for each type of insurance separately.

Assessment and accounting of investments are conducted according to international financial reporting standards that prescribe the option to estimate assets at fair value and amortized value.

Before martial law was introduced in Ukraine, the NBU intended to improve the regulatory reporting forms and requirements for indicators disclosed in said forms. In particular, the balance sheet should be compiled with a breakdown by different types of insurance and currencies; the list of requirements should be expanded for insurance expense indicators with a breakdown by insurance types and categories of expenses; more details should be disclosed on assets and liabilities of the insurer, especially regarding assets to comply with solvency requirements, etc.

47. What specific rules apply to the publication of annual accounts of insurance companies?

Insurers compile their financial statements in accordance with international financial reporting standards, on the basis of financial reporting taxonomy as set forth in international standards, and in a single electronic format. These statements are then submitted to the center for collecting financial

statements. Insurers are required to do this by the Law *On Accounting*. These statements are freely accessible to all users.

In addition, the same law requires insurers to post their financial statements in full on their websites, together with an auditor's report, no later than 30 April of the year after the reporting period.

Insurers are also required to disclose reports and other information, as set forth in the Regulation *On Disclosure of Information by Nonbank Financial Institutions* approved by NBU Board Resolution No. 114 dated 5 November 2021. Among other things, this resolution requires insurers to disclose information about the main indicators of their activity, based on the regulatory reports these insurers submit to the NBU, by posting these main indicators on their websites.

48. Which annual accounting, prudential and statistical information is the insurance undertaking required to give to the supervisory authority in respect of its business?

Insurance undertakings are required to submit the following reports to the NBU:

- 1) financial statements (consolidated financial statements), including annual financial statements and consolidated financial statements, together with an independent auditor's report, and a management report (a consolidated management report). These reports are compiled and submitted on the basis of financial reporting taxonomy, in line with international standards and in a standard electronic format, to the center for collecting financial statements, as set forth in the Law *On Accounting* and the Procedure for Submitting Financial Statements approved by Ministerial Decree No. 419 dated 28 February 2000.
- 2) a corporate governance report, as set forth in the Law *On Financial Services*
- 3) reporting data (other than financial statements and consolidated financial statements), as required by the *Rules for the Compilation and Filing of Reports with the NBU by Nonbank Financial Services Market Participants*, approved by NBU Board Resolution No. 123 dated 25 November 2021
- 4) any other information required by certain regulations and any other information insurers may be required to submit to the NBU to enable the Central Bank to implement its statutory mandate.

49. What are the rules governing on-site inspections / on the spot inspections?

Article 29 of the Law *On Financial Services* defines inspections as a type of supervision over participants in nonbank financial services markets. This supervision is carried out in line with the Law *On Financial Services* and relevant NBU regulations.

Article 30 of the Law *On Financial Services* sets the main requirements for organizing and conducting inspections of participants in nonbank financial services markets, and for documenting inspection findings. Among other things, this article stipulates that:

1. The NBU has the right to carry out scheduled and unscheduled inspections of participants in nonbank financial services markets (apart from financial services consumers), and of their affiliates and congenerous parties.

The NBU sets the criteria for measuring the degree of risk arising from the activities of participants in nonbank financial services markets and the social importance of these participants,

which are then used as grounds for planning the frequency of scheduled inspections. Scheduled inspections of a participant in nonbank financial services markets cannot be conducted more often than once a year.

The NBU approves an annual inspection plan for the next calendar year no later than 25 December of the current year and publishes it on its official website within ten days of its approval.

2. The NBU is required to inform a participant in nonbank financial services markets of its plans to conduct a scheduled inspection no later than 10 calendar days before the inspection begins.

A scheduled inspection cannot last longer than 30 business days, while the ones of micro and small companies cannot exceed 10 business days. On reasonable grounds, this period may be extended by up to 15 business days.

3. The NBU may decide to carry out unscheduled inspections if:

1) it identifies information that indicates that a participant in nonbank financial services markets has failed to comply with the applicable laws and/or if it identifies misrepresentation in the documents submitted to it, as set forth in the relevant laws

2) it wants to inspect how a participant in nonbank financial services markets is complying with its request that the participant eliminates violations of the applicable legislation that the NBU has identified when supervising nonbank financial services markets

3) if a participant in nonbank financial services markets fails to meet the deadline for submitting reports and other documents, or fails to provide information that the participant is required to submit or provide by the relevant laws and/or by the NBU

4) if an analysis of private individuals' reports and supporting documents or copies of these documents proves that the violations committed by a participant in nonbank financial services markets have infringed on the rights and legitimate interest of these individuals

5) if there is a proof that the financial health of a participant in nonbank financial services markets has deteriorated or/that the degree of risk arising from the activities of this participant has increased, or that the participant is operating on the nonbank financial services market without a license and permits

6) if it wants to inspect how a participant in nonbank financial services markets is complying with the requirements set and restrictions imposed by the NBU.

The NBU is required to inform a participant in nonbank financial services markets of its plans to conduct an unscheduled inspection no later than the day that the inspection begins.

An unscheduled inspection cannot last longer than 10 business days, while the ones of micro and small companies cannot exceed five business days.

On reasonable grounds, the NBU may decide to extend this period by up to 15 business days, and by up to seven business days for small companies.

4. The NBU may bring in external experts who have the proper qualifications for inspections.

5. The NBU may investigate information about a financial institution customer only for supervisory purposes.

6. Persons who have been authorized by the NBU to conduct inspections may request that the officials of an inspected entity provide explanations, information, documents and copies of these documents, as well as written explanations for their conduct and copies of documents, including those that prove violations of the applicable legislation.

The top officials and/or employees of an inspected entity are required to provide persons authorized by the NBU with free of charge access to view all of the inspected entity's information systems, as required for the inspection, and should be permitted to sample and download any information needed for further analysis. They are also required to provide information about the functioning of these systems, as well as any information, documents and written explanations about the activities of the inspected entity.

The top officials and/or employees of an inspected legal entity are required to provide the persons authorized by the NBU with free of charge access to information and copies of documents, including those that are stored in the legal entity's information systems, that are needed for further supervisory action.

7. If the NBU needs to study the subject matter of an unscheduled offsite inspection in greater detail, it may require a participant in nonbank financial services markets to provide additional documents and/or information.

8. The NBU compiles an inspection report on the basis of the inspection's findings.

9. The NBU establishes the procedure for conducting inspections and documenting their findings.

On 26 February 2021, NBU Board Resolution No. 22 approved the *Regulation On Organizing, Conducting, and Documenting the Findings of Inspections of Nonbank Financial Services Markets Participants* (hereinafter – the Regulation No. 22).

This regulation stipulates:

- the composition of an inspection team, together with the rights and duties of this team
- the rights and duties of the top officials and employees of an inspected entity
- the rules for organizing scheduled and unscheduled inspections
- the rules for conducting inspections
- the rules for documenting an inspection's findings
- the specifics of conducting inspections and documenting inspection findings as part of consolidated supervision
- actions to be taken when inspected entities obstruct inspections

Annexes to the Regulation 22 contain standardized formats for the minutes of a meeting held as part of an inspection, acceptance certificates for documents, as well as for certificates documenting obstructions during an inspection and a refusal to undergo an inspection.

Compulsory insurance

50. Which insurances are compulsory (i.e. medical, hunting, architect, building, aircraft, lawyer's liability insurance)?

Current regulation (according to the Law On Insurance).

Types of insurance provided by insurers are divided into voluntary and compulsory.

For providing compulsory types of insurance (about 40 types), the insurer shall obtain a separate license for each type, and the terms and conditions of such type of insurance are established by the Government or by the Law. The compulsory types of insurance are as follows:

- socially significant types of insurance (MTPL, transport accident insurance, insurance for certain types of workers whose professional activities may damage their life or health)
- insurance against liability of all types of carriers
- environmental risks insurance (environmental damage, nuclear risks, etc.)
- insurance against liability in performing risky activities or certain types of professional activities (notaries, owners weapons, tourism, extractive industries, owners of dogs of dangerous breeds, etc.)

According to Article 7 of the Law *On Insurance*, the following types of compulsory insurance are provided in Ukraine:

1. medical insurance
2. personal insurance of medical and pharmaceutical workers (except for those working in institutions and organizations financed from the State Budget of Ukraine) in case of infection with human immunodeficiency virus in the performance of their duties
3. personal insurance of employees of departmental (except those working in institutions and organizations financed from the State Budget of Ukraine) and rural fire protection and members of voluntary fire brigades (teams)
4. insurance of sportsmen of higher categories
5. life and health insurance of veterinary specialists
6. personal insurance against accidents on transport
7. aviation insurance of civil aviation
8. liability insurance of the sea carrier and the executor of works related to the maintenance of maritime transport, in respect of damages caused to passengers, luggage, mail, cargo, other users of maritime transport and third parties
9. civil liability insurance of land vehicles owners
10. civil liability insurance of the business entity that provides services for transportation and / or storage of vehicles in case of temporary detention of vehicles, for damage that may be caused to the vehicle during its transportation and / or storage
11. insurance of maritime and inland water transport
12. civil liability insurance of the nuclear installation's operator for nuclear damage that may be caused as a result of a nuclear incident

13. insurance of employees (except those working in institutions and organizations financed from the State Budget of Ukraine) who participate in the provision of psychiatric care, including care for persons suffering from mental disorders
14. civil liability insurance of entities for damage that may be caused by fires and accidents at high-risk facilities, including fire and explosion-hazardous facilities and facilities where economic activities may lead to environmental and sanitary-epidemiological accidents
15. civil liability insurance of the investor, including for damage caused to the environment, human health, under the production sharing agreement, unless otherwise provided by such agreement
16. insurance of property risks under the production sharing agreement in the cases provided by the Law of Ukraine No.1039-XIV *On Production Sharing Agreements* dated 14 September 1999
17. insurance of financial liability, life and health of the temporary administrator, liquidator of the financial institution and employees of the central executive body implementing the state financial policy, which are determined by him to address issues of state participation in the bank's capitalization
18. insurance of property risks in the industrial development of oil and gas fields in the cases provided by the Law of Ukraine No. 2665-III *On Oil and Gas* dated 12 July 2001
19. insurance of medical and other employees of state and municipal health care institutions and state scientific institutions (except those working in institutions and organizations financed from the State Budget of Ukraine) in case of infectious diseases associated with their implementation professional responsibilities in conditions of increased risk of infection with infectious diseases
20. liability insurance of the exporter and the person responsible for the disposal (removal) of hazardous waste, to compensate for damage that may be caused to human health, property and the environment during transboundary movement and disposal (disposal) of hazardous waste
21. insurance of civil liability of space entities
22. liability insurance for risks associated with the preparation for launch of space technology at the spaceport, launch and operation in outer space
23. liability insurance of dangerous goods transport entities in case of negative consequences during the transportation of dangerous goods
24. professional liability insurance of persons whose activities may cause harm to third parties, according to the list established by the CMU
25. insurance of liability of dog owners (according to the list of breeds determined by the CMU) for damage that may be caused to third parties
26. insurance of civil liability of citizens of Ukraine who own or otherwise lawfully possess a weapon for damage that may be caused to a third party or its property as a result of possession, storage or use of these weapons
27. insurance of animals (except those used for agricultural production) in case of death, destruction, forced slaughter, from diseases, natural disasters and accidents in cases and according to the list of animals established by the CMU
28. liability insurance of tourism entities for damage caused to the life or health of the tourist or his property

29. liability insurance of maritime shipowners and shipowners
30. insurance of power transmission lines and converting equipment of electricity transmitters from damage due to natural disasters or man-made disasters and from illegal actions of third parties
31. liability insurance of producers (suppliers) of products of animal origin, veterinary drugs, substances for damage caused to third parties
32. insurance of the subject of the mortgage against the risks of accidental destruction, accidental damage or deterioration
33. insurance of property transferred to the concession
34. insurance of civil liability of entities for damage that may be caused to the environment or human health during storage and use of pesticides and agrochemicals
35. civil liability insurance of the business entity for damage that may be caused to third parties as a result of blasting
36. insurance of property risks of the subsoil user during research-industrial and industrial extraction and use of gas (methane) of coal deposits
37. civil liability insurance of a private notary
38. insurance of the risk of non-payment of prizes to players in case of insolvency and / or bankruptcy of the state lottery operator
39. insurance of life and health of demining specialists (except for those working in institutions and organizations financed from the State Budget of Ukraine) for the period of their participation in the performance of humanitarian demining works
40. insurance of civil liability of the business entity for damage that may be caused to the environment and (or) health and property of third parties during the performance of humanitarian demining work
41. liability insurance of developers of land management documentation (take effect on 26 May 2022)
42. liability insurance of executors of topographic, geodetic and cartographic works of national purpose (take effect on 26 May 2022)
43. insurance of the risk of financial losses caused by the crisis situation at the critical infrastructure facility, referred to the list approved by the CMU in accordance with the Law of Ukraine *On Critical Infrastructure* (take effect on 15 June 2022).

Future regulation (in accordance with the (new) Law On Insurance):

The (new) Law *On Insurance* cancels the compulsory types of insurance and modifies the approach to define whether the insurance agreement is compulsory for certain types of business within the insurance classes. The list of such types of businesses has been reviewed and updated, and the procedure for providing such services by insurers has been simplified.

51. What are the specific legal provisions relating to compulsory insurance to be fulfilled by an insurance company?

Current regulation (according to the *Law On Insurance*).

The main requirements to insurers are as follows:

- experience in voluntary insurance
- receipt of licenses for each type of insurance (about 40 types)
- obligatory participation in insurers' associations (nuclear insurance pool and Motor (Transport) Insurance Bureau of Ukraine)
- established business conditions as required by the Government
- for certain types of compulsory insurance, there are additional requirements for reporting, solvency, authorization in respective bodies, enhanced control in performing both onsite and offsite supervision.

Future regulation (in accordance with the (new) *Law On Insurance*):

The (new) *Law On Insurance* modifies the approach to defining whether the insurance agreement is compulsory for certain types of business within the insurance classes (instead of obtaining a separate license for each type of insurance).

It is set at the level of the (new) *Law On Insurance* that an insurer shall receive a license for the established insurance class and be a member in the insurers' association, if it is required by the law (nuclear pool or Motor (Transport) Insurance Bureau of Ukraine).

Motor insurance

52. Is motor insurance compulsory in Ukraine?

The liability insurance of the owners of motor vehicles is compulsory according to the *Law On Civil Liability*.

53. What are the damages covered (esp. both damages to things and injuries to persons)? Are there exclusions in the persons covered?

Current regulation:

According to the *Law On Civil Liability*, the losses incurred by damage to life, health, and/or property of the party affected by the transport accident shall be covered.

Said law covers passenger cars, trailers to passenger cars, buses, cargo trucks, trailers to trucks, motorcycles and scooters that are subject to the state registration and record-keeping in the regional bodies of the Ministry of Interior of Ukraine and/or allowed to participate in road traffic, as well as

those imported to the customs territory of Ukraine for temporary use being registered in other countries.

The Law *On Civil Liability* does not provide for the exceptions for certain persons, except in cases of damage to life and health of passengers who were in a vehicle that caused a traffic accident and who are insured under another type of compulsory insurance (personal insurance against accidents in transport).

Future regulation:

Since 2021 the NBU has been working on preparing a new edition of the Law of Ukraine *On Compulsory Insurance Against Civil Liability of Owners of Land Motor Vehicles* for the purposes of implementation of Directive 2009/103/EC. The aim of the new law is to improve the system of compulsory insurance against civil liability of owners of land motor vehicles, bring the mechanism of the injured parties protection in line with the requirements of the EU laws by gradual increase of insurance amounts, upgrading the system of compensation for damage caused to the affected parties, wider application of electronic technologies, enhancement of guarantee and information functions of the Motor (Transport) Insurance Bureau of Ukraine, streamlining the system of the Bureau's corporate governance, and improvement of state supervision over the implementation of this type of insurance.

The NBU's proposals to the new version of the mentioned law include the enlargement of a range of vehicles covered by the respective compulsory insurance by including all vehicles subject to state and institutional registration and taking part in road traffic (incl. municipal buses, trolleybuses, agricultural vehicles, etc.).

The approach in determining the list of persons whose damages will be covered under the new edition of the Law will meet the requirements of Directive 2009/103/EC.

54. Is there a maximum amount of coverage specified in the law? If yes, what is the level of this coverage?

Current regulation (according to the Law On Civil Liability):

At present, the maximum amount of coverage is established in the Law and it should be reviewed by the regulator in accordance with the inflation rate. As of 1 April 2022 the maximum amount of coverage was set at the following levels:

for damage to life and health – UAH 260,000

for damage to property – UAH 130,000 per one injured party.

Future regulation:

The NBU's proposals to the new version of the Law of Ukraine *On Compulsory Insurance Against Civil Liability of Owners of Land Motor Vehicles* include gradual annual increase of the coverage amounts in 7 years up to the amounts provided for in Directive 2009/103/EC.

Thus, upon adoption of the Law the following limits shall be set:

for damage to life and health – UAH 1,000,000 per one injured party and UAH 20,000,000 per one insured event, irrespective of number of the injured parties

for damage to property – UAH 2,000,000 per one insured event, irrespective of number of the injured parties.

Upon expiry of the transitional period of 7 years, the limits shall be set in the following amounts:

for damage to life and health – UAH 32,000,000 per one injured party and UAH 160,000,000 per one insured event, irrespective of number of the injured parties

for damage to property of the injured parties – UAH 32,000,000 per one insured event, irrespective of the number of the injured parties.

III. FINANCIAL MARKET INFRASTRUCTURE

55. Which authorities are responsible on financial market infrastructure in Ukraine?

The NSSMC is the authority responsible for state regulation of and supervision over the Central Securities Depository, Central Counterparty, Trade Repository and other institutions of domestic capital market infrastructure.

56. To which extent is the Financial Market Infrastructure aligned to the European legislation?

The Law *On Capital Markets* in general complies with the provisions of Regulation (EC) № 648/2012 (EMIR) with regard to regulation of the activities of the Central Counterparty and trade repository.

The Law of Ukraine No. 5178-VI *On Depository System of Ukraine* dated 6 July 2012 (hereinafter – Law *On Depository System*) in general complies with the provisions of Regulation (EC) № 909/2014 (CSDR).

The Ukrainian legislation in general complies with the provisions of Directive 2002/47/EC (Financial Collateral Directive). In particular, the Law of Ukraine No. 738-IX *On Amendments to Certain Legislative Acts of Ukraine to Facilitate Investment Attraction and Introduce New Financial Instruments* dated 19 June 2020 has implemented the provisions of EU Directive № 2002/47/EU (Financial Collateral Directive) into the national legislation with regard to the implementation of the liquidation netting provisions.

The provisions of Regulation (EU) № 2015/2365 (SFTR) have not yet been implemented in the legislation of Ukraine.

NSSMC is working on the new draft law *On Depository System* which will repeal the current one of 2012. This draft law will be based on Regulation (EC) № 909/2014 (CSDR) and also will

cover other EU acquis related to financial market infrastructure, in particular Regulation (EU) № 2015/2365 (SFTR).

57. Please, provide details about existing mechanisms to reduce the systemic risk linked to the insolvency of a participant in payment and securities settlement system and to which extent they are in line with the Settlement Finality Directive (98/26/EC).

The Law of Ukraine No. 738-IX *On Amendments to Certain Legislative Acts of Ukraine to Facilitate Investment Attraction and Introduce New Financial Instruments* dated 19 June 2020 has implemented the provisions of EU Directive № 98/26/EU (Settlement Finality Directive) into the national legislation with regard to implementing the provisions on the finality of settlements.

In addition, the Regulation *On Clearing Activities*, approved by the resolution of the NSSMC No. 5 dated 13 January 2022 and registered by the Ministry of Justice of Ukraine as No. 114/37450 on 1 February 2022, contains, in particular, the requirements for the organization of the system of registering the entity, which performs clearing activity, and the clearing participant, and the Clearing Requirements, in which, in particular, the provisions of EU Directive 98/26/EC (Settlement Finality Directive) with regard to the implementation of the provisions on the finality of settlements and liquidation netting procedures were implemented.

According to paragraph 2 of Section II of this Regulation, in particular, the internal documents of the clearing person must contain clear, non-discriminatory and transparent rules, grounds and procedures for suspending, resuming and terminating the provision of clearing services to the clearing member (including clients), clearing participant) who has defaulted, violated (violates) the terms of the clearing service agreement, violated (violates) or no longer meets the requirements for a clearing participant established by the clearing rules and internal documents of the clearing person.

Pursuant to paragraph 7 of Section IV of this Regulation, the grounds for refusing admission to the clearing of rights and obligations are, in particular, the default of the clearing participant under any contract / transaction / transaction, clearing of rights and obligations under such person conducts clearing activities, in cases provided by the internal documents of the person conducting the clearing activities;

Section V of this Regulation defines the requirements for the organization of a risk management system for clearing activities and according to which, in particular:

in accordance with paragraph 1, in particular, the risk management and assurance system of the clearing person must be documented in the provision on the clearing person's risk management and guarantee system. Regulations on the system of risk management and guarantees of the person conducting clearing activities shall be approved by the body of the person conducting clearing activities, responsible for supervision.

Regulations on the risk management system and guarantees must contain:

a description of the policies, procedures and tools used for risk management

identification of types of risks that arise during clearing activities

risk identification procedure

methodologies and models for calculating and assessing risks

risk mitigation measures, including by obtaining collateral (in the case of using collateral to reduce risks)

the procedure and conditions for the application of appropriate risk mitigation measures

measures for modeling, forecasting processes and future results of the clearing person, based on information analysis and risk assessment

risk-appetite of the person conducting clearing activities

the procedure for monitoring the effectiveness of risk management policies, procedures, tools and guarantees.

In case of creation of a guarantee fund:

the procedure for the formation, placement and use of the guarantee fund to ensure the fulfillment of obligations under contracts / transactions / transactions, clearing of rights and obligations under which is carried out by the person conducting clearing activities

requirements for clearing members regarding the formation and use of the guarantee fund

a list of assets that are allowed as sources of formation of the guarantee fund

the procedure for determining the amount of contributions to the guarantee fund, the shares of clearing participants in the guarantee fund and the mechanism for their evaluation, the procedure for their return

the procedure for making transfers to the guarantee fund

the procedure for distribution and compensation of losses from default of the clearing participant (participants)

the procedure for using the funds of the guarantee fund to repay the debt of the clearing participant in case of default

the procedure and procedures for repaying the debt of clearing members at the expense of their own contributions to the guarantee fund

the procedure for applying sanctions to clearing members who fail to replenish contributions to the guarantee fund in a timely manner

the procedure for managing and covering default, including the use of warranty

the procedure for amending the provisions on the risk management system and guarantees

other information specified by law

in accordance with paragraph 5, in particular, a person conducting clearing activities, to carry out clearing activities without 100% prior deposit / reservation / blocking of assets that are the subject of the contract / transaction / transaction, must establish an obligation for registered persons to provide collateral in the form of margins for contracts / transactions / transactions, clearing of rights and obligations under which are carried out by such a person without 100% prior deposit / reservation / blocking of assets that are the subject of the contract / transaction / transaction.

in accordance with paragraph 8, in particular, the guarantee may be individual and / or collective, which must be specified in the clearing agreement.

in accordance with paragraph 9, in particular, satisfaction of claims provided by individual / collective guarantee, in case of default of the clearing participant is carried out by the clearing person, in the manner prescribed by its internal documents, taking into account the requirements of this Regulation.

in accordance with paragraph 11, in particular, guarantee funds are created and formed in the manner prescribed by the internal documents of the person conducting clearing activities. Guarantee funds can be created through the contributions of clearing members.

The clearing person may set up separate guarantee funds for different types / categories of contracts / transactions / transactions that are cleared by the clearing person.

Under paragraph 16, the clearing person must, within the provisions of the risk management and guarantee system, approve procedures aimed at eliminating the default of clearing members, including covering losses of such default, restoring liquidity and replenishing the assets of the clearing person, used to cover default. The clearing person may involve clearing members and other participants in financial services markets and organized commodity markets affected by clearing default procedures in testing and reviewing such procedures.

The provisions on the risk and guarantee management system should also provide for the procedure for transferring the rights and obligations of the insolvent clearing member and its clients to another clearing member. The clearing member shall, before the admission of the rights and obligations of the client of such clearing member to clearing, provide the clearing person with information on the clearing member selected by the clearing member's client to transfer such client's rights and obligations under this paragraph (hereinafter - the selected clearing member). Clients of a clearing member whose rights and obligations are recorded on a clearing account with a collective account must have a single jointly selected clearing member.

If the clearing person does not have information on the clearing participant selected by a particular client or such selected clearing member cannot take over the management of the rights and obligations of the insolvent clearing client, the clearing person may transfer the rights and obligations of the insolvent client to the management of any other clearing member. Such transfer of the rights and obligations of the insolvent client, which is subject to individual accounting, shall be carried out only with the consent of such client. A client's consent should be obtained only if the clearing person can identify such a client. If such a client has not given consent within the period specified in the internal documents of the person conducting clearing activities, the person conducting clearing activities has the right to liquidate the rights and obligations of such client in the manner prescribed by the internal documents of such person perform other actions provided for in its internal documents.

If the client of a clearing participant who is insolvent, within the period specified in the internal documents of the clearing person, refuses or evades concluding an agreement on further service of such client with the clearing member to whom the rights and obligations have been granted. Such a client, the person conducting clearing activities has the right to make liquidation netting on the rights and obligations of such a client, as well as to perform other actions provided for in its internal documents.

In accordance with paragraph 17 within the risk management system, the clearing person may establish additional obligations of clearing members in proportion to the risks posed by such clearing member, including the obligation to participate in the redemption of rights and obligations of the participant clearing in case of default of the clearing participant or making additional contributions

to the guarantee funds in the manner prescribed by the internal documents of the person conducting clearing activities. Such additional responsibilities shall be transparent, non-discriminatory and shall not create unjustified restrictions on the clearing members' access to the services of the clearing person.

The risk management system of the clearing person may provide for the obligation of clearing members to make additional contributions to the guarantee fund in case of default of the clearing participant (participants) in excess of the amount provided for in the first paragraph of this paragraph, but provided that the clearing person activities, made full use of other default management tools, including own assets. In this case, clearing members should be able to estimate at any time the maximum amount of additional contributions that they may be required to make in connection with the default of the clearing member;

in accordance with paragraph 18 in the event of default due to non-performance of obligations under contracts / transactions / transactions committed in the interests of the clearing client, to cover the obligations of such clearing client in the default procedure may use assets (including guarantee collateral), which are recorded on the clearing accounts of the clearing participant, and assets (including guarantee collateral), which are recorded on other clearing accounts of such clearing client.

In the event of default under a contract / transaction / transaction that is covered by one guarantee fund, the defaulting clearing member's contributions to other guarantee funds may be used to cover such default.

in accordance with paragraph 19, the person conducting clearing activities, in accordance with its internal documents, decides on the procedure for the sale of assets that are subject to collateral, terms of sale, counterparties under contracts, etc.;

Pursuant to paragraph 20, in the event of default, the person conducting the clearing activity must use the margin provided to ensure the fulfillment of the obligations of the registered person in respect of which the default occurred before the use of other collateral. A person conducting clearing activities may not use the margin provided to meet the obligations of one registered person to cover the default of another registered person (except for the exceptions provided for in paragraph 18 of this section and the use of the margin provided to ensure the fulfillment of obligations under clearing account with collective accounting, to cover the default on such clearing account with collective accounting).

If the margin is not sufficient to cover the default, the clearing agent may use the defaulting clearing member's contribution to the guarantee fund, which ensures the fulfillment of obligations under the category of contract / transaction / transaction for which the clearing member allowed default.

A person conducting clearing activities may not use the contributions to the guarantee funds provided by defaulting clearing members until the defaulting security of the clearing member has been used to cover such default.

A clearing person may not use the guarantee fund contributions provided by defaulting clearing members to cover the default of another clearing member before using the clearing person's own assets to cover the defaulting of clearing members in accordance with internal documents of the person conducting clearing activities.

If the risk management system of the clearing person provides that the margins may not be sufficient to settle the default, the Rules and other internal documents of the clearing person shall establish the procedure for determining the amount of own assets of the clearing person. activities that will be set aside to cover defaults of clearing members.

Provisions on the risk and guarantee management system should provide for additional mechanisms for settling the default, including the possibility of obtaining financial assistance from persons who have a significant stake in the clearing person, if the clearing person's own assets are set aside to cover defaults of clearing participants, not enough to cover the default.

In case of inability of a person conducting clearing activities to settle the default in accordance with its internal documents, such person must immediately notify the NSSMC;

in accordance with paragraph 21, in the event that the Central Securities Depository conducts clearing activities to determine liabilities, the risk management system of the Central Securities Depository should be established taking into account the non-assumption of risks of default or improper performance of obligations by the parties (liabilities admitted to clearing) in accordance with the requirements of capital markets legislation.

Also, Section VI paragraph 12 of this Regulation stipulates that a person conducting clearing activities is obliged to provide daily stress testing to verify:

adequacy of collateral to cover credit risks

sufficiency of financial assets in the access of the clearing person to ensure liquidity, including in case of default, and the possibility of access to additional financial assets.

Scenarios and parameters for such stress tests should be reviewed at least on a monthly basis.

IV. SECURITIES MARKETS AND INVESTMENT SERVICES

A. General questions

58. Is there a market abuse regime in place? Is there an authority in charge of supervising regulated markets? If yes, please indicate name and address.

The legal regulation which governs combating insider trading and manipulation on capital markets is contained, in particular, in the Law *On State Regulation of Capital Markets* and the Law *On Capital Markets*, the *Criminal Code of Ukraine* and the Code of Ukraine *On Administrative Offenses*. However, the legislation in this area needs to be improved and brought into compliance with, in particular, the provisions of EU Regulation № 596/2014 (MAR), Directive № 2014/57/EU (MAD), Directive № 2014/65/EU (MIFID II) and the IOSCO Principles.

The NSSMC is the authority responsible for state regulation of and supervision over the regulated markets in Ukraine. Address: 8 Moskovska str., building 30, Kyiv, 01010. Reception of the NSSMC Chairman + 38 (044) 254 24 30. General questions info@nssmc.gov.ua. International cooperation foreign@nssmc.gov.ua

59. Is there a central securities register? Please provide details.

In accordance with Article 94 of the Law *On Capital Markets*, the NSSMC maintains the State Register of Securities Issues according to the procedure established by it. The NSSMC establishes the procedure for access of capital market participants to the information contained in the State Register of Securities Issues. Such access is free of charge.

The State Register of Securities Issues is a system of collecting, accumulating and processing the information on the issues of shares, corporate bonds, local loan bonds, securities of collective investment schemes, mortgage certificates, mortgage bonds, real estate fund certificates, registered by the NSSMC. The State Register is maintained on electronic media.

The NSSMC's publicly available information database on the securities market is an information resource, which is the basis for effective interaction between the regulator, issuers, investors and the public with regard to exercising the NSSMC's powers to disclose and provide access to the information on the activity of securities issuers.

B. Legal framework

60. Which authorities are responsible on securities markets and investment services in Ukraine?

The Law *On Financial Services* stipulates the powers of state bodies in regulation financial markets.

State regulation of the capital markets and organized commodity markets is carried out by the NSSMC (the regulated entities are investment firms, custodians, central securities depository, clearing houses, stock exchanges, asset managers, pension funds). State regulation of the banking services and other financial services, which are not included in the competence of the NSSMC is carried out by the NBU.

Other government authorities exercise control over the activities of securities market participants within their powers determined by the current legislation. (Article 5 of the Law *On State Regulation of Capital Markets*). The Ministry of Finance of Ukraine and the NBU exercise certain powers with regard to the issuance and record-keeping of government securities. The Ministry of Finance of Ukraine is the issuer of government debt securities and pursues the policy of government debt management. Government bonds placement is not subject to regulation by the NSSMC and is a part of the budget policy of the state. The procedure for conducting operations related to the placement of government bonds is established by the NBU in coordination with Ministry of Finance of Ukraine.

NBU is a general agent for servicing the placement and redemption of government debt securities, and is a central securities depository for government debt securities. Peculiarities of depository and clearing activities with government securities by the NBU is established by the NSSMC and approved by the NBU. The NBU provides depository activities with government debt securities and treasury bills and services corporate actions on the NBU clients' securities accounts in a way established by the NBU with the approval of NSSMC.

61. Please indicate the principal legislation adopted in this area and its implementation.

The Law *On Capital Markets* regulates relations arising during the issue, circulation, redemption of securities and fulfillment of obligations under them, conclusion and execution of derivative contracts, replacement of derivative contracts and transactions on financial instruments on the capital markets, as well as relationships that arise in the course of professional activities in the capital markets and organized commodity markets.

The Law of Ukraine No. 1956-XII *On Commodity Exchanges* dated 10 December 1991 determines the legal conditions for the creation and operation of commodity exchanges in Ukraine as organized commodity markets.

The Law *On the Depository System* defines the legal basis for the functioning of the depository system of Ukraine, establishes the procedure for registration and confirmation of rights to equity securities and rights to them in the securities depository accounting system, as well as the procedure for settlements.

The Law of Ukraine No. 5080-VI *On Collective Investment Institutions* dated 5 July 2012 (hereinafter – the Law *On UCITS*¹²) is aimed at attracting and effectively allocating financial resources of investors and determines the legal and organizational basis for the creation, operation, termination of mutual investment entities, features of asset management, sets requirements for composition, structure and storage of such assets, features of issue, circulation, accounting and redemption of securities of collective investment institutions, as well as the procedure for disclosing information about their activities.

The Law of Ukraine No. 3273-IV *On Mortgage Bonds* dated 22 December 2005 defines the legal basis for the issuance and circulation of mortgage bonds, requirements for their mortgage coverage, as well as features of state regulation and supervision in this area.

The Law *On State Regulation of Capital Markets and Organized Commodity Markets* (new version dated 19 June 2020) determines the legal basis for the implementation of state regulation of capital markets and organized commodity markets and state control over the issuance and transactions of financial instruments in Ukraine.

Investment firms

62. Please outline the legal framework adopted for the operation of investment companies, mutual funds, pension funds.

Relations arising in the process of issuance, circulation, repurchase of securities and fulfillment of securities liabilities, conclusion and execution of derivative contracts, replacement of parties to derivative contracts and carrying out transactions in financial instruments on capital markets, as well

¹² <https://zakon.rada.gov.ua/laws/show/5080-17?lang=en#Text>

as relations arising in the course of professional activity on capital markets and organized commodity markets are regulated by the Law *On Capital Markets*.

According to Article 3 of the Law *On Capital Markets*, the legal basis for the functioning of capital markets and organized commodity markets is the Constitution of Ukraine, the Law *On Capital Markets*, the Law *On State Regulation of Capital Markets*, Law *On the Depository System*, the Law *On UCITS*, other laws of Ukraine in this area, as well as the international agreements of Ukraine, agreed as binding by the Verkhovna Rada of Ukraine, other legal acts of Ukraine, and the regulatory legal acts developed by the NSSMC in accordance with this Law.

The legal acts regulating the activity of investment firms in Ukraine are:

Procedure for issuing, suspending and revoking a license to conduct professional activities on capital markets approved by the NSSMC's Resolution No. 982 dated 21 October 2021 and registered by the Ministry of Justice of Ukraine as No. 1563/37185 on 3 December 2021

Licensing conditions for carrying out professional activities on the stock market (securities market) – securities trading activities approved by the NSSMC's Resolution No. 819 dated 14 May 2013 and registered by the Ministry of Justice of Ukraine as No. 857/23389 on 1 June 2013, which are applicable to the extent they do not contradict the Law

Requirements (rules) for securities trading activities: brokerage, dealership, underwriting, securities management activities approved by the NSSMC's Resolution No. 640 dated 3 November 2020 and registered by the Ministry of Justice of Ukraine as No. 62/35684 on 10 January 2021 (hereinafter – Requirements 640), which are applicable to the extent they do not contradict the Law

Requirements to contracts concluded in the course of professional activity on the stock market (securities market) – securities trading activities: brokerage, dealer, underwriting, securities management activities approved by the NSSMC's Resolution No. 641 dated 3 November 2020 (hereinafter – Requirements 641), registered by the Ministry of Justice of Ukraine as No. 60/35682 on 14 January 2021, which are applicable to the extent they do not contradict the Law

At the same time, the NSSMC continues working on further implementation of the European Union legislation in the field of capital markets.

63. Is the provision of investment services subject to authorisation in the country? Is there any exception (undertakings which do not provide services for third parties, investment services not carried out on a professional basis)?

According to Article 70 parts one – three of the Law *On Capital Markets*, professional activity on capital markets, a separate type of which is trading in financial instruments, which is carried out by investment firms for which transactions with financial instruments are an exclusive type of activity, except for cases envisaged by the Law *On Capital Markets*, shall be carried out exclusively on the basis of a license issued by the NSSMC (except for the professional activity of the Central Securities Depository and the depository activity of the NBU). The list of documents required to obtain a license to conduct the relevant type of the activity on capital markets, and the procedure for its issuance and cancellation are established by the NSSMC, taking into account the requirements of Articles 71 – 73 of the Law *On Capital Markets*.

1. According to Article 36 part twelve of the Law *On Capital Markets*, derivative contracts, which are financial instruments, and transactions in financial instruments must be concluded with the participation or mediation of an investment firm, except in the following cases:

- 1) placement of the issuer's own securities
- 2) redemption and sale of the issuer's own securities
- 3) settlements using non-equity securities
- 4) placement of treasury obligations of Ukraine
- 5) contribution of securities to the authorized (composed) capital of a legal entity
- 6) donation of securities
- 7) pledge of securities, as well as the commission of transactions aimed at the implementation, change and termination of such pledge (blocking, institution, transfer, use, management, foreclosure on the subject of the pledge, etc.)
- 8) inheritance and succession of securities (including the division of inherited property)
- 9) committing transactions related to the execution of court resolutions
- 10) committing transactions in the privatization process
- 11) conclusion by the bank with its client of derivative contracts of the money market outside the organized market of derivative contracts
- 12) concluding transactions between eligible investors referred to in Article 6 part one paragraphs one – six of the Law *On Capital Markets* on financial instruments outside the organized capital market
- 13) conclusion of commodity derivative contracts outside the organized capital markets provided for in Article 44 part sixteen of the Law *On Capital Markets*
- 14) committing transactions outside Ukraine.

Article 44 parts sixteen - eighteen of the Law *On Capital Markets* stipulate that the following are not professional activities in the capital markets:

- 1) activity on concluding commodity derivative contracts on its own initiative, on its own behalf and at its own expense
- 2) activity on concluding commodity derivative contracts at the expense and on behalf of clients or at the expense of clients, but on its own behalf, provided that such clients are persons who are their suppliers and / or consumers of goods within the main activity of these legal entities (works, services) produced (performed, provided) by such legal entities.

The above activities do not require a license to conduct relevant activities in the capital markets and may be carried out under the following conditions:

- 1) the conclusion of such derivative contracts (each individual derivative contract, as well as the whole set of such derivative contracts) during the financial year is not such transactions that constitute their main activity or the main activity of a group of companies (parent company and its subsidiaries), to which such legal entities belong
- 2) persons engaged in such activities do not use high-frequency trade to conclude commodity derivative contracts

3) persons conducting such activities have notified the NSSMC in accordance with the procedure established for such a derivative contract.

The NSSMC may require that the persons engaged in the activities referred to in Article 44, part sixteen indents one-two of the *Law On Capital Markets* provide confirmation that the activity of concluding commodity derivative contracts is not the main economic activity of such persons.

For the purposes of parts sixteen and seventeen of this article, the definition of economic activity that is the main activity (including for a group of companies) shall be carried out in accordance with the procedure established by the National Securities and Stock Market Commission.

Also, according to Article 45, part six indent two of the *Law On Capital Markets*, concluding and executing an investment firm that is a bank, derivative money market contracts outside the organized market is not a professional trade in financial instruments for such an investment firm and does not require a license.

Licensing conditions for carrying out professional activity on capital markets and organized commodity markets according to its specific types, including organizational and operational requirements, requirements for the amount of the initial and equity capital, the procedure for its determining, liquidity, requirements to the persons performing management functions, and others specialists of a professional participant of capital markets and organized commodity markets, requirements for the premises, hardware and software, requirements for the origin of the funds from which the initial capital of a professional participant of capital markets and organized commodity markets is formed, other requirements and indicators limiting risks of professional activity on capital markets and organized commodity markets, are established by the NSSMC, taking into account the requirements envisaged by the law.

64. How are investment services defined? Which activities require previous authorisation to be carried on? Which institutions can provide investment services? Are credit institutions and/or insurance undertakings authorised to carry on any of these activities? Do they need specific authorisation?

According to Article 44 part one of the *Law On Capital Markets*, the activity of trading in financial instruments is carried out by investment firms established in the form of a joint-stock company, limited liability company or additional liability company, for which transactions in financial instruments are an exclusive type of activity, except for the cases envisaged by the *Law On Capital Markets*.

The NSSMC determines the conditions for obtaining a license by foreign legal entities to conduct relevant types of activity within the professional activities of trading in financial instruments.

The activity of trading in financial instruments includes the following types of activity:

- 1) sub-brokerage activity
- 2) brokerage activity
- 3) dealer activity
- 4) activity of financial instruments portfolio management

- 5) investment consulting
- 6) underwriting activity and/or activity of guaranteed placement
- 7) activity of non-guaranteed placement.

Article 44 parts six - thirteen of the Law *On Capital Markets* stipulate that:

Sub-brokerage activity is the activity performed by an investment firm of accepting orders from clients for concluding derivative contracts and conducting transactions in financial instruments at the expense of clients and placing relevant orders for execution to another investment firm carrying out brokerage activities.

Brokerage activity is the activity performed by an investment firm of concluding derivative contracts and conducting transactions in financial instruments at the expense and on behalf of clients or at the expense of clients, but on its own behalf.

Dealer activity is the activity performed by an investment firm of concluding derivative contracts and conducting transactions in financial instruments on its own behalf and at its own expense.

Activity of financial instruments portfolio management is the activities performed by an investment firm to manage a portfolio of financial instruments, consisting of one or more financial instruments, in the interests of clients.

An investment firm has the right to conclude contracts on financial instruments portfolio management with individuals and legal entities. A contract on financial instruments portfolio management may not be concluded by an investment firm with an asset management company.

The minimum amount of the contract on financial instruments portfolio management with one client - individual is established by the NSSMC.

Investment consulting is the activity performed by an investment firm to provide individual recommendations to clients at their request or on the initiative of the investment firm to conclude derivative contracts, contracts on replacement of a party to a derivative contract, conduct transactions in financial instruments and currency values.

Underwriting is an activity performed by an investment firm on its own behalf and/or on behalf of the issuer or offeror for remuneration in accordance with the terms of the underwriting contract.

According to the underwriting contract, an investment firm undertakes, under the conditions and within the period defined in the securities prospectus and acting on behalf of an issuer or offeror, to arrange the placement of a previously agreed amount of securities of an issuer or offeror, and to make a purchase of the securities which were not alienated to the first owners as of the end of the placement period provided for in the securities prospectus on its own behalf and at its own expense.

Underwriting involves the performance by an investment firm of:

- 1) preparation of the securities prospectus, including determination and negotiation with the issuer or offeror of the main characteristics of the securities offered to be alienated (in particular, type, kind, volume, period and conditions of alienation)

- 2) determination of the price of securities offered to be alienated, including by probing the capital market, in accordance with Article 147 of the Law *On Capital Markets*

3) registration of the securities prospectus

4) alienation of securities to the first owners within the period envisaged by the securities prospectus

5) acquisition by an investment firm of the securities not purchased by the first owners in accordance with indent 4 of this part.

Guaranteed placement activities are activities carried out by an investment firm on its own behalf in accordance with the terms of the contract on organization of guaranteed placement.

Under the contract on the organization of guaranteed placement, an investment firm undertakes to purchase all the securities of an issuer or offeror offered to be alienated on the terms and within the period specified in the securities prospectus, on its own behalf and at its own expense.

The agreement on the organization of guaranteed placement may envisage that an investment firm performs one or all of the actions provided for in Article 44 part eleven indents one – three of the Law *On Capital Markets*. Activity of non-guaranteed placement is an activity carried out by an investment firm on behalf of an issuer or offeror in accordance with the terms of the contract on the organization of placement.

According to the contract on the organization of placement, an investment firm undertakes to organize the placement of the previously agreed amount of securities of an issuer or offeror on the terms and within the period specified in the securities prospectus, acting on behalf of an issuer or offeror.

The contract on the organization of placement may envisage that an investment firm performs one or all actions provided for in Article 44 part eleven indents one – four of the Law *On Capital Markets*.

The NSSMC issues a separate license, envisaged in Article 4 of the Law *On State Regulation of Capital Markets*, for conducting each type of activity of trading in financial instruments in accordance with the procedure established by this Law.

Also, according to Article 44 part two of the Law *On Capital Markets*, an investment firm, taking into account the requirements of the legislation, may provide clients with the following additional services, provided that they are specified in the resolution of the NSSMC on issuing a license for conduct of a relevant type of activities within the professional activity of trading the financial instruments and they are entered in the register of professional participants of capital markets and organized commodity markets:

1) safekeeping of clients' financial instruments and funds (including recording of ownership rights to securities and rights under securities on the client's securities accounts as part of the depository activity of the depository institution), as well as disposal of the client's financial instruments and funds which are the subject of safekeeping (including usage of rights under securities in the interests of the client)

2) provision of credits and loans to clients for concluding derivative contracts with the participation or mediation of such an investment firm and conduct of transactions in financial instruments

3) providing clients with advice on financing their business activities, development strategies, other related issues, providing services and advice on reorganization or purchase of corporate rights of legal entities

4) services that involve foreign exchange transactions, in cases involving the provision of services by an investment firm to its client. The provision of such services is subject to the requirements of the *Law On Currency*

5) conducting investment research and financial analysis or providing any other general recommendations related to the conduct of transactions in financial instruments

6) services related to underwriting

7) providing guarantees for the fulfillment of obligations to third parties under contracts concluded on behalf of the client of such an investment firm.

In the course of its activities in the capital markets an investment firm has the right to provide additional services provided for in this part (except for the depository activities of the depository institution provided for in paragraph 1 of this part), without obtaining additional licenses and other permits.

Except for investment firms, only banks have the right to obtain a license to conduct professional activities in trading financial instruments.

According to Article 70 part one of the *Law On Capital Markets*, professional activity in capital markets is carried out exclusively on the basis of a license issued by the NSSMC (except for the professional activity of the Central Securities Depository and depository activities of the NBU). The list of documents required to obtain a license to conduct the relevant activity in the capital markets, the procedure for its issuance and cancellation shall be established by the NSSMC, taking into account the requirements of Articles 71-73 of the *Law On Capital Markets*.

Credit institutions

Pursuant to Article 47 of the *Law On Banks and Banking*, a bank is entitled to render the banking and other financial services (except the insurance), as well as to engage itself in other activities stipulated by this Article of the *Law On Banks and Banking*, in both domestic and foreign currencies.

A bank has the right to engage itself in banking upon obtaining the banking license of the NBU by means of rendering the banking services. At the same time, a bank conducts professional activity in the capital markets based on the license granted by the NSSMC.

A bank is entitled to render certain financial services to its customers (other than banks) through entering into agent agreements with legal entities (commercial agents). The list of the financial services a bank is entitled to render to its customers (other than banks) through entering into agent agreements shall be compiled by the NBU. A bank shall inform the NBU of the signed agent agreements under the procedure established by Ukrainian laws. The NBU shall maintain the register of banks' commercial agents and establish requirements thereto. A commercial agent shall have the right to render financial services on behalf of a bank after the information on said commercial agent is entered into the respective register maintained by the NBU. The NBU shall set forth the requirements to commercial agents. Banks may enter into agent agreements with the entities that comply with the requirements established by the NBU.

The bank shall render the services of currency assets trading in cash and noncash forms to individuals and legal entities with the simultaneous crediting the currency assets to their accounts pursuant to the *Law On Currency*.

In addition to rendering the financial services any bank is entitled to be engaged in the activities related to:

- investments
- issue of its own securities
- custody of assets (including accounting and custody of securities and other valuables that have been confiscated (arrested) in favor of the state and/or such that have been declared ownerless), and leasing of an individual lockbox
- cash collection and cash in transit services
- consulting and information services with regard to the banking and other financial services
- services of an issue administrator in line with the Law *On Capital Markets*.

At the same time, bank is entitled to engage in any legal transactions necessary for rendering the banking and other financial services and for the other bank's activities. A bank is entitled to engage in a new business type or rendering a new type of the financial services (other than the banking ones), provided it complies with the requirements of the NBU regarding this type of business or service.

A bank shall inform the NBU not later than one month before the intended start of the new type of business or service (with the exception of the banking services) about its intention according to the requirements and procedure determined by the NBU.

Credit unions are prohibited to engage in any activities other than those specified in the Law on Credit Unions. Please see more details in answers to question 7.

Insurance companies

Current regulation (in line with current Law *On Insurance*):

Article 2 of the Law *On Insurance* prescribes that an insurer can only engage in the business of insurance, reinsurance, and **financing associated with raising, allocating, and managing insurance reserves**. According to said line of business, insurers are permitted to provide services to other insurers based on civil law agreements, provide services (perform works) directly related to said lines of business, as well as any other transactions for satisfying their own procurement needs. The applicable law does not require an insurer to apply for additional licenses or extend the current license for managing the insurer's assets or policyholder's funds. The Law does not prescribe provision of other financial services (including investment services), save for the abovementioned ones.

Future regulation (in line with the (new) Law *On Insurance*):

The (new) Law *On Insurance* drafted based on Directive 2009/138/EC (Solvency II) prescribes that the business of insurance includes as follows:

- 1) direct business according to insurance classes as set out in Article 4 of this Law
- 2) reinsurance according to insurance classes as set out in Article 4 of this Law

3) risk management of insurer assets

- 4) insurance distribution in line with this Law

5) other lines of business associated with direct business and/or reinsurance set out by NBU regulations.

Also, the (new) Law *On Insurance* prescribes engaging in the business of insurance of selected classes, including life insurers can engage in unit-linked life insurance. At the same time, insurers are prohibited to engage in the business of this insurance class, until a specific law regulating this line of business is drafted and approved.

65. What conditions are new investment firms required to meet by law before taking up their businesses (legal form, initial capital, good reputé and sufficient experience for persons who direct the business, fit and proper test for shareholders)?

According to the first part of Article 44 of the Law *On Capital Markets*, trading in financial instruments is carried out by investment firms established in the form of a joint-stock company, limited liability company or additional liability company, for which financial instruments are the exclusive activity except cases provided by this Law.

The NSSMC determines the conditions for obtaining a license by foreign legal entities to conduct relevant activities within the professional activities of trading in financial instruments.

According to parts 3-5 of Article 44 of the Law *On Capital Markets*, the initial capital of an investment firm engaged in professional trading in financial instruments should meet the requirements for its calculation established by Article 70 of this Law, in particular, initial capital accumulated by a legal entity intending to conduct professional activities in the capital markets and / or organized commodity markets, consists of one or more of the following elements:

- 1) capital instruments (shares, bonds or other securities, as well as borrowings and any other transactions resulting in an increase in the equity of a legal entity), provided that they meet the requirements established by the NSSMC
- 2) issue income related to equity instruments
- 3) accumulated profits or losses
- 4) accumulated other total income
- 5) other reserves.

The amount of such initial capital may not be less than UAH 22 million, except in the following cases:

the amount of initial capital of an investment firm engaged in professional activities in trading financial instruments, namely sub-brokerage activities, brokerage activities, portfolio management activities, provided that such investment firm has the right to receive on its own account and dispose of funds and financial instruments, should meet the requirements for its size and procedure for its calculation, established by the NSSMC, and may not be less than 4 million hryvnias

the amount of initial capital of an investment firm engaged in professional activities in trading in financial instruments, namely sub-brokerage activities, brokerage activities, financial instrument portfolio management activities, investment advice, placement activities without guarantees, provided that such investment firm is not entitled to receive on its own account and dispose of funds and financial instruments of clients, should meet the requirements for its size and procedure for its calculation, established by the NSSMC , and may not be less than 1.5 million hryvnias.

Clause 18 of the first part of Article 2 of the Law *On Capital Markets* stipulates that business reputation business reputation is a set of documented information about a natural or legal person, which allows to conclude that its activities meet the requirements of law, business practice and professional ethics, as well as information about decency, professional and managerial abilities of an individual.

The professional suitability of a member of the body responsible for supervision is defined as the combination of knowledge, professional and managerial experience required for the proper performance of official duties, taking into account the business plan (business strategy) of a professional participant in capital markets and organized commodity markets.

According to the first part of Section IV of Standard № 4 “Corporate Governance in Professional Participants in Capital Markets and Organized Commodity Markets” organization and functioning of the internal control system in professional participants, who do not belong to enterprises of public interest and systemically important professional participants”, approved by the NSSMC Resolution No. 1291 dated 30 December 2021 and registered by the Ministry of Justice of Ukraine as No. 263/37599 on 28 February 2022 (hereinafter - the Standard), chairman and members of the body responsible for supervision, chairman and members of the collegial executive body, the person exercising the powers of the sole executive body, officials and employees of the internal control system of the professional participant, other persons specified by law acts of the NSSMC, should meet the qualification requirements for business reputation and professional suitability set out in this Standard.

The business reputation of the above persons, ensuring the functioning of the internal control system of a professional participant, is a set of documented information about an individual, which allows to conclude that its activities meet the requirements of law, business practice, professional ethics and decency, professional, managerial skills natural person and should meet the following requirements:

1) the person was not dismissed from work in the markets of financial services and / or organized commodity markets at the request of a state body, including a foreign one (except for cases when the person was dismissed due to refusal to approve a person for the position of head or official of the system internal control)

2) the person has not been dismissed (including from work in foreign legal entities) during the last five years for systematic or one-time gross violation by a person of his official duties and / or rules of work, violation of anti-corruption legislation, theft, abuse of power / official position or other offense (when working in resident legal entities - dismissal on the basis of paragraphs 3, 4, 7, 8 of the first part of Article 40, paragraphs 1, 1-1, 2, 3 of the first part of Article 41, paragraph the ninth part of the first article 43-1 and article 45 of the Labor Code of Ukraine, and was not dismissed from the civil service on the grounds specified in the fifth part of Article 66 of the Law of Ukraine No 889-VIII *On Civil Service* dated 10 December 2015)

3) the person has not been relieved of the functions of the trust's attorney (manager) or other fiduciary relations with this person have not been terminated due to violation or improper performance of his / her duties

4) if the person held positions required of law by the relevant state body, there are no facts of holding the position / positions of the head or official of the internal control system of the financial institution / commodity exchange (performance of duties) for more than six months without approval

by the relevant state body for such position / positions (applied from the first day of the seventh month after the day of election (appointment) of the person to the position (in case of holding several positions or one position several times without approval of the relevant state body - after the day of election (appointment)) for the first of such positions) and within three years from the date of elimination of this violation)

5) there are no facts established by the relevant state body, providing that the person directly or through third parties to the state body inaccurate information about his/ her own person, who influenced or could influence the decision of this state body (applicable within three years from the date of such information)

6) there are no facts of a person staying for more than six months as the head of a financial institution / commodity exchange (except for the deputy chief accountant) or an official of the internal control system of a financial institution / commodity exchange (or performing official duties) during the year preceding the decision bankruptcy of a financial institution / commodity exchange or entry into force of a decision on compulsory liquidation, or revocation of a license for committing an offense in financial services markets and / or organized commodity markets or classifying a bank as insolvent or revoking a bank license at the initiative of the NBU (except for revocation of the banking license in connection with the failure of the bank to carry out any banking operation within a year from the date of its receipt or during the liquidation of the bank at the initiative of the owners)

7) the person was not able to provide mandatory instructions or otherwise determine whether to significantly influence the actions of the financial institution / commodity exchange as of holding a position in a financial institution / commodity exchange as of any date during the year preceding the date of the decision on declaring a financial institution / commodity exchange bankrupt or entering into force of a decision on compulsory liquidation, or revoking a license for committing an offense in financial services and / or organized commodity markets or classifying a bank as insolvent or revoking a bank's banking license at the initiative of the NBU (except for the revocation of the banking license in connection with the failure of the bank of any banking transaction within a year from the date of its receipt or during the liquidation of the bank at the initiative of the owners)

8) there are no facts of the person staying in the management body or as an official of the internal control system of a foreign financial institution / commodity exchange for more than six months during the year before the authorized body of the foreign country decides to declare the financial institution / commodity exchange insolvent or bankrupt or enter into force decision on compulsory liquidation or revocation of a license for committing an offense in financial services and / or organized commodity markets or declaring a bank insolvent or revoking a license to conduct banking / lending activities (except revoking a license when liquidating a foreign bank at the initiative of owners)

9) the person was not able to provide mandatory instructions or otherwise determine or significantly influence the actions of a foreign financial institution / commodity exchange as of any date during the year before the authorized body of the foreign country decides to recognize the financial institution / commodity exchange insolvent or bankrupt, or entry into force of a decision on compulsory liquidation, or revocation of a license for an offense in the financial services markets and / or organized commodity markets, or declaring this bank insolvent or revoking a banking / credit license (in addition to revoking the license during the liquidation of a foreign bank at the initiative of the owners)

10) there are no facts of termination (dismissal) of the person or his/ her transfer to another position during the last three years, if it was preceded by a request of the relevant state body, including the authorized body of a foreign country to replace this person in office due to improper performance of official duties which led to a violation by the financial institution / commodity exchange of the requirements of the law

11) the person's business reputation is impeccable in the sense of the AML/CFT Law

12) the person has not committed substantial and / or systematic violations of banking, financial, currency legislation, legislation on financial monitoring, legislation on capital markets and organized commodity markets, legislation on joint stock companies, legislation on consumer protection established by law order

13) there are no facts of two or more absences of the person (without good reason) to draw up a report on administrative offenses of banking, financial, currency legislation, legislation on financial monitoring, legislation on capital markets and organized commodity markets, law on joint stock companies, legislation on protection of rights consumers

14) there are no facts of non-compliance of the person's activity with the requirements of business practice and / or professional ethics

15) no economic or other restrictive measures (sanctions) have been applied to the person in accordance with the resolutions of the United Nations Security Council, other international organizations, decisions of the Council of the European Union, other intergovernmental associations of which Ukraine is a member (participant). Prohibition of trade and / or financial transactions by bodies of foreign states (except states carrying out armed aggression against Ukraine within the meaning of Article 1 of the Law *On Defense* (for the purposes of this subparagraph) these measures were applied if three years had passed since their abolition)

16) the person is not deprived, in the manner prescribed by law, of the right to hold certain positions or engage in certain activities (for the purposes of this subparagraph a person is considered not deprived of the right to hold certain positions or engage in certain activities after the expiration of the deprivation)

17) the person is not included in the list of persons connected with terrorist activities or in respect of whom international sanctions have been applied, in accordance with the procedure established by law

18) there are no facts of violation by the person of the order of coordination of acquisition of essential participation in financial institution / commodity exchange

19) there are no other signs of non-compliance of business reputation with the requirements set by law and relevant government agencies (including relevant foreign government agencies) identified in relation to periods of employment in the financial services market and / or organized commodity markets, which are regulated by relevant government agencies.

The presence of signs of non-compliance with the requirements specified in subparagraphs 1-19 and in the twenty-first paragraph of this paragraph shall be established for the last five calendar years preceding the assessment of business reputation, unless otherwise specified in the content of the signs specified in law on capital markets and organized commodity markets, in particular in this Standard.

The professional suitability of the above-mentioned persons ensuring the functioning of the internal control system of a professional participant is defined as a set of knowledge, professional and managerial experience of a person necessary for proper performance of official duties taking into account the business plan (business strategy) of the professional participant.

Persons ensuring the functioning of the internal control system of a professional participant should have a higher education not lower than the first degree (bachelor).

Persons ensuring the functioning of the system of internal control of a professional participant should comply with the restrictions set forth in Article 26 of the Law *On Corruption Prevention*.

Persons ensuring the functioning of the professional participant's internal control system should be able to devote sufficient time to the performance of their duties.

Those who ensure the functioning of the professional participant's internal control system should have no conflict of interest (conflict between personal interests and job responsibilities of the professional participant) or have the possibility to resolve such a conflict of interest.

According to parts eighteen and nineteen of Article 74 of the Law *On Capital Markets*:

1. A legal entity or natural person who meets at least one of the following criteria may not be the owner of a significant participation in a capital markets professional participant and organized commodity markets:

1) is a legal entity - a resident of the state, carrying out armed aggression against Ukraine in the sense given in Article 1 of the Law *On Defense*

2) sanctions are imposed on a person or his officials in accordance with the resolutions of the United Nations Security Council, other international organizations, decisions of the Council of the European Union, other intergovernmental associations of which Ukraine is a member (participant), that restrict or prohibit trade and / or financial transactions

3) sanctions are applied to a person or his officials in accordance with the Law *On Sanctions* dated

4) the person or his officials are included in the list of persons connected with terrorist activities or in respect of whom international sanctions have been applied

5) the person is under the control of the persons specified in paragraphs 1-4 of this part, or has such persons among the owners of significant participation

6) does not meet the requirements of the legislation

2. In the event of a decrease in the performance of a professional participant in capital markets and organized commodity markets used to measure and assess the risks of its activities, so that there is a risk of non-compliance with prudential standards set by the NSSMC or there is a risk of inability of capital markets professional participant and organized commodity markets to fulfill its financial obligations, the maturity of which has expired, a person who has a significant participation in such a professional capital markets participant and organized commodity markets, is obliged to:

1) provide financial assistance to such professional participant in the framework of taking measures to bring its activities in line with the requirements of law or in order to fulfill such financial obligations of such participant in the amount proportional to the amount of his participation; or

2) to initiate consideration by the general meeting of participants (shareholders) of the issue of liquidation of such professional participant. If the general meeting does not support the proposal of a

person who has a significant share in the professional participant of capital markets and organized commodity markets to decide to liquidate the professional participant, such person is obliged to perform the actions provided for in paragraph 1 of this part.

Paragraphs 7, 8 of Section III of the Procedure for Approving the Intention of a Person to Acquire or Increase Substantial Participation in a Professional Stock Market Participant, approved by the NSSMC Resolution No.394 dated 13 March 2012 and registered by the Ministry of Justice of Ukraine as No. 635/20948 on 26 April 2012 (as amended), set requirements to the business reputation of individuals and legal entities that intend to acquire or increase significant participation in a professional participant in capital markets, namely:

The business reputation of individuals over the past ten years must meet the following requirements:

1) the person has no judicial decisions that have entered into force, for committing a criminal offense, for committing an offense in the financial services market in civil or administrative proceedings, in cases of bankruptcy or insolvency, or the person has not been subject to disciplinary action, including dismissal from the position of the head of the enterprise (institution, organization)

2) there are no open criminal proceedings, open enforcement proceedings, sanctions procedures or cases related to offenses in the ongoing financial services market

3) the person in accordance with the law was not denied licensing, registration, authorization, membership, issuance of documents (certificates, permits) entitling to conduct activities in the financial services market, or the person was not revoked, canceled or suspended such license, such registration is revoked, such membership is terminated or suspended, such certificate, permit is revoked

4) the person was not fired from work in the financial services markets at the request of a state body (including foreign), at the initiative of the owner of the enterprise (institution, organization) or its authorized body (for a resident - on the basis of Article 40 part one paragraphs 2, 3, 4, 7, 8 and Article 41 of the Labor Code of Ukraine), at the request of a trade union or other body authorized to represent the labor collective, dismissed from the functions of attorney (manager) of the trust or terminated other fiduciary relations

5) the person does not have a potential / real conflict of interest in relation to a professional stock market participant or has the opportunity to eliminate such a conflict of interest

6) the person has not been subject to economic and other restrictive measures (sanctions) in accordance with the resolutions of the United Nations Security Council, other international organizations, decisions of the Council of the European Union, other intergovernmental associations of which Ukraine is a member that consider restriction or prohibition of trade and / or financial transactions by foreign authorities or Ukraine

7) the person has agreed to a substantial participation in a professional stock market participant in the event of its acquisition or increase in the manner prescribed by law

8) the person has no criminal record, not removed or not repaid in the manner prescribed by law

9) the person has not been deprived of the right to hold certain positions or engage in certain activities

10) the person has not been held administratively liable for violating the law in the financial services markets more than twice a year

11) there is no fact of non-appearance of a person to draw up a report on an administrative offense in the securities market (in the case of its drawing up)

12) the person is not included in the list of persons connected with terrorist activities, or in respect of whom international sanctions have been applied in accordance with the procedure established by law.

The business reputation of legal entities for the last ten years must meet the following requirements:

1) there are no court decisions concerning a person that have entered into force, for committing a criminal offense, for committing an offense on the financial services market in civil or administrative proceedings, in cases of bankruptcy or insolvency

2) there are no open criminal proceedings, open enforcement proceedings, sanctions procedures or cases related to offenses in the ongoing financial services market

3) the person in accordance with the law was not denied licensing, registration, authorization, membership, issuance of documents (certificates, permits) entitling to conduct activities in the financial services market, or the person was not revoked, revoked or suspended such license, such registration is revoked, such membership is terminated or suspended, such certificate, permit is revoked

4) the person has not been relieved of the functions of the attorney (manager) of the trust or other fiduciary relations have been terminated

5) the person does not have a potential / real conflict of interest in relation to a professional stock market participant or has the opportunity to eliminate such a conflict of interest

6) economic and other restrictive measures (sanctions) have not been applied to the person in accordance with the resolutions of the United Nations Security Council, other international organizations, decisions of the Council of the European Union, other intergovernmental associations of which Ukraine is a member that consider restriction or prohibition of trade and / or financial transactions by foreign authorities or Ukraine

7) the person has agreed to a substantial participation in a professional stock market participant in the event of its acquisition or increase in the manner prescribed by law

8) the person is not included in the list of persons connected with terrorist activities or in respect of whom international sanctions have been applied, in accordance with the procedure established by law.

9. The person has the right to provide additional information and documents confirming the compliance of his business reputation with the requirements of this section.

66. Are there prudential ratios (solvency, liquidity)? Are they applied on a consolidated basis?

In accordance with paragraph 37-5 of the second article 7 of the Law *On State Regulation of Capital Markets* NSSMC according to its tasks in cases and within the limits defined by law establishes prudential standards and other indicators and requirements that limit risks operations related to the direct conduct of professional activities for each type of professional activity in the capital markets and organized commodity markets, as well as the subjects of the funded pension system.

The list, calculation procedure and normative values of prudential indicators used for their measurement and evaluation determine the requirements for all professional participants in capital markets and organized commodity markets (hereinafter – professional participants) Regulations on Prudential Standards of Professional Activity in the Stock Market and Management System Risks approved by the Resolution of the NSSMC No.1597 dated 1 October 2015 and registered by the Ministry of Justice of Ukraine as No.1311/27756 on 28 October 2015 (as amended) (hereinafter – Regulation No. 1597).

Regulation No. 1597 is applied to the Central Securities Depository and to professional participants engaged in the following activities:

- trading activity on capital markets
- asset management activities
- depository activity
- clearing activities
- activities for the organization of trade in financial instruments (securities exchanges activities)
- property management activities to finance construction and / or real estate transactions.

Paragraph 1 of Chapter 1 of Section III of Regulation No. 1597 stipulates that the following indicators are used to measure and assess the risks of trading in financial instruments:

- 1) the amount of regulatory capital (own funds)
- 2) regulatory capital adequacy ratio
- 3) first level regulatory capital adequacy ratio
- 4) financial leverage ratio
- 5) absolute liquidity ratio
- 6) credit risk concentration ratio.

In addition, the second part of Article 16-1 of the Law *On Financial Services* stipulates that the NSSMC supervises non-banking financial groups on a consolidated basis, the predominant activities of which are financial institutions supervised by the NSSMC.

According to Article 1 part one paragraph one item 19 of the Law of Ukraine *On Financial Services*, a non-banking financial group is a group of legal entities with a common controller (except of a bank), which non-bank financial institution (non-bank financial institutions) carries out the predominant activity.

Article 16-1 part four of the Law of Ukraine *On Financial Services*, in particular, stipulates that the body that carries out state regulation of financial services markets, in accordance with the

division of powers provided for in part two of this article. On a consolidated and sub-consolidated basis in its regulations has the right to set requirements for the financial group, its subgroups on the adequacy of regulatory capital.

Requirements for the regulatory capital of the non-banking financial group are set by the Regulation on Consolidated Supervision of Non-Banking Financial Groups, the predominant activity of which is carried out by financial institutions supervised by the NSSMC, approved by the NSSMC as No. 431 dated 26 March 2013 and registered by the Ministry of Justice of Ukraine as 618/23150 on 16 April 2013.

67. Please explain whether there is an investor compensation scheme and how it works to compensate investors in case an investment firm is not able to return back assets.

At present, the legislation of Ukraine does not contain provisions on the mechanism of compensation to investors in securities, which is provided by Directive № 97/9/EU of 3 March 1997.

NSSMC is working on the draft law *On Investors' Compensation Schemes*. This draft law will be based on Directive № 97/9/EU of 3 March 1997.

Current Ukrainian legislation does not contain any specific provisions in respect of resolving and insolvency of investment firms. These issues are covered by the general bankruptcy regime set in the Bankruptcy Code of Ukraine.

Credit Rating Agencies

68. The EU framework for CRAs is defined by Regulation 1060/2009 (CRA I) as amended by Regulations 513/2011 (CRA II) and 462/2013 (CRA III). Are you already familiar with the main elements of this regime?

In order to implement the provisions of Regulation (EU) № 1060/2009, the draft Law of Ukraine *On Rating* was developed and submitted to the Verkhovna Rada of Ukraine. Registration number of the draft Law in the Verkhovna Rada of Ukraine No.5819 dated 22 July 2021.

This draft law is fully based on CRA III provisions. It is expected that it could be approved by the Verkhovna Rada within one year and will take into force from 1 January 2024.

69. Does Ukraine follow international developments on CRAs (e.g. G-20, FSB, IOSCO)?

Ukraine follows international practices in regulating the activities of rating agencies. Further detailed analysis of this practice will be carried out after the legislation of Ukraine will be aligned with Regulation 1060/2009 with all further amendments.

70. Does Ukraine have a system for the approval and registration of CRAs? If so, how many CRAs are active in the country's capital market?

In accordance with Article 7 paragraphs 31, 33 of the Law *On State Regulation of Capital Markets* and in accordance with its tasks NSSMC establishes the procedure for maintaining the State Register of authorized rating agencies. As well, the NSSMC issues to Certified Rating Agencies a Certificate of Inclusion in the State Register of Authorized Rating Agencies.

According to Article 4¹ of the Law of Ukraine *on State Regulation of Capital Markets and Organized Commodity Markets* a person acquires the right to determine ratings from the date of issuance of the Certificate of Inclusion in the State Register of Authorized Rating Agencies.

A person is included in the State Register of Authorized Rating Agencies based on the results of competitive selection.

Procedure for conducting a competition to determine authorized rating agencies, procedure for maintaining and compiling information of the State Register of Authorized Rating Agencies, procedure for excluding an authorized rating agency from the State Register of Authorized Rating Agencies, procedure for issuing a duplicate of a certificate of inclusion on the definition of authorized rating agencies and the procedure for maintaining the State Register of Authorized Rating Agencies, approved by the NSSMC Resolution No. 607 dated 10 August 2017 and registered by the Ministry of Justice of Ukraine as No.1112/30980 on 8 September 2017.

Authorized rating agencies, included in the State Register of Authorized Rating Agencies as of December 31, 2021.

No	EDRPOU code	Name	Certificate of inclusion in the State Register	Decision on inclusion in the State Register
1	33262696	LLC Rating agency IVI - Rating	No. 3 date of issuance of the Certificate is 12 April 2010	No. 385 dated 7 April 2010
2	16480462	LLC RURICK	No. 4 date of issuance of the Certificate is 12 April 2010	No. 385 dated 7 April 2010
3	34819244	LLC Rating agency EXPERT-RATING	No. 5 date of issuance of	No. 860 dated 8 June 2010

			the Certificate is 9 June 2010	
4	31752402	LLC Credit-Rating	No. 6 date of issue of the Certificate is 10 April 2012	No. 530 dated 10 April 2012
5	37413337	LLC Rating agency STANDARD-RATING	No. 8 date of issue of the Certificate is 10 April 2012	No. 529 dated 10 April 2012

According to item 32 of Art. 7 of the Law of Ukraine *On State Regulation of Capital Markets and Organized Commodity Markets* the NSSMC determines the list of international rating agencies that have the right to determine statutory ratings of issuers and securities.

International rating agencies that have the right to determine statutory ratings of issuers and securities

/п №	Name of agency	Resolutions regarding the list of international rating agencies recognized by the NSSMC
1	Fitch Ratings (United Kingdom, United States)	No. 198 dated 22 February 2006
2	Moody's Investors Service (USA)	No. 198 dated 22 February 2006
3	Standard and Poor's (USA)	No. 198 dated 22 February 2006
4	Subsidiaries that are under operational control Moody's Investors Service Inc: - Moody's Investors Service Ltd, London, GB; - Moody's Central Europe a.s., Prague, Czech Republic; - M Moody's France S.A.S, Paris, France; - Moody's Deutschland GmbH, Frankfurt am Main, Germany;	No. 1890 dated 28 August 2007

	<ul style="list-style-type: none"> - Moody's Italia S.r.l., Milan, Italy; - Moody's Investors Service Espana, S.A., Madrid, Spain; - Moody's Eastern Europe LLC, moscow, russia; - Moody's Investors Service Inc, New York, USA 	
--	---	--

71. Does Ukraine have in place a system for CRA supervision?

According to Article 8 of the Law of Ukraine *On State Regulation of Capital Markets*, the NSSMC has the right, in particular:

- to send via the official communication channel to issuers, subjects of the funded pension system (except for depositors and participants) and persons engaged in professional activities in the capital markets and organized commodity markets, and self-regulatory organizations required to implement orders to eliminate violations of capital markets and organized commodity markets, legislation on the protection of the rights of consumers of financial services and legislation on joint stock companies, as well as require the provision of the necessary documents in accordance with the law

- to conduct independently or together with other relevant bodies inspections of financial and economic activities of authorized rating agencies

- in case of detection of violations by the Rating Agency of the requirements of the laws of Ukraine in the field of securities and / or regulations of the NSSMC to take measures in accordance with law, including excluding authorized rating agencies from the State Register of Authorized Rating Agencies; on inclusion in the State Register of Authorized Rating Agencies, to exclude international rating agencies from the list of recognized ones.

There also should be noted that the Authorized Rating Agencies submit (send) annual information to the central office of the NSSMC by 1 March of the year following the reporting year. Irregular Information shall be sent to the NSSMC's headquarters within ten working days of the date of the action

Submission of information by authorized rating agencies to the central office of the NSSMC is carried out in the form of electronic documents. The information is compiled in accordance with the description of sections and schemes of XML files, defined by a separate document of regulatory and technical nature.

In accordance with its powers, the NSSMC monitors the accuracy and disclosure of information, in particular disclosed by the Authorized Rating Agencies, and its compliance with the established requirements.

72. Are Ukraine authorities familiar with the responsibilities of the European Securities and Markets Authority (ESMA) in the area of CRAs?

The NSSMC is aware of ESMA's powers, in particular the provisions of Regulation (EU) № 1060/2009.

The draft Law of Ukraine No. 5819 *On Rating* dated 22 July 2021, grants the NSSMC with powers that are similar to those ESMA has in the area of CRAs according to CRA III.

Collective Investment Undertakings

73. Are collective investment undertakings subject to authorisation requirements?

Collective investment institutions (UCITS) are not professional participants in the capital markets, and therefore collective investment institutions do not have to obtain a license to conduct professional activities in the capital markets or separate permits.

The main legal framework governing the activities of collective investment institutions is the Law *On UCITS*.

UCITS is registered in accordance with clearly established procedures and in accordance with the requirements set by special regulations governing the activities of UCITS.

According to the Law *On UCITS*, collective investment entities may be established in the following legal forms: corporate investment fund and mutual investment fund.

A corporate fund is a legal entity established in the form of a joint stock company and conducts only joint investment activities.

A mutual fund is a set of assets owned by the participants of such a fund on the right of joint partial ownership, managed by the asset management company and accounted for by it separately from the results of its economic activities.

The registration of UCITS is carried out by the NSSMC by entering information on the UCITS into the Unified State Register of UCITS (hereinafter - the Register) with the assignment of a registration code to such institute.

The basis for entering information about the UCITS in the Register is the regulations registered in accordance with the procedure established by the NSSMC.

The investment fund acquires the status of UCITS from the date of entering information about it in the Register. A corporate investment fund, in contrast to a mutual investment fund, also has the status of a financial institution which it acquires immediately with the status of a mutual investment institution.

The corporate fund is obliged to register the regulations within six months from the date of state registration of the corporate fund as a legal entity.

Collective investment activities are carried out after entering information about the UCITS in the Register and obtaining a certificate of entry in the Register.

Within one year from the date of entering the information on the investment fund into the Register, the asset management company shall register with the NSSMC the issue of securities carried out for the purpose of collective investment and the prospectus of their issue.

A mutual fund is created by an asset management company.

A mutual fund is considered to be created from the date of entering information about it in the Register.

74. Are the assets of collective investment undertakings entrusted to a depositary? Are such assets separate to the depositary's own assets? Which further obligations have to be fulfilled by the depositary? Is the depositary subject to prior approval? Which requirements apply for the depositary? What are the tasks of the depositary and which ones can be delegated to a third party? Is the depositary liable for the loss of the assets held in custody?

According to the Law *On the Depositary System*:

- the following types of depositary activities may be carried out in Ukraine, in particular, activities for safekeeping the assets of institutes of collective investments

- depositary activities are carried out by the depositary institution on the basis of a license issued by the NSSMC in the manner prescribed by law

- the activity of safekeeping the assets of institutes of collective investments is carried out by the depositary institute in the manner and cases specified by law

- procedure and features of control by the depositary institute over compliance of operations with the assets of the UCITS with the regulations, the prospectus of securities of the UCITS, corporate investment fund charter and legislation, as well as compliance with legislation, UCITS regulations and corporate investment fund charter with asset management in calculating the value of net assets of the UCITS, placement and redemption of securities of the UCITS, the use of profits from the assets of the UCITS are established by the NSSMC.

According to the Law *On UCITS*:

- the custodian of the assets of the institutes of collective investments with public placement is a bank that has a license to carry out depositary activities of the custodian of securities, issued by the NSSMC in the prescribed manner. It is not obligatory to conclude an agreement with the custodian for the maintenance of the assets of the institutes of collective investments with private placement. In the case of a corporate fund or asset management company of a mutual fund with private placement of such an agreement, the custodian of the assets of such the UCITS may be a legal entity licensed to depositary activities of the custodian, issued by the NSSMC in the prescribed manner

- the custodian of the assets of the UCITS may not be related to the persons of the asset management company, auditor (audit firm), appraiser of the property of the UCITS, depositary

- each UCITS must have only one custodian of the assets of the UCITS

- a bank that is the custodian of the assets of the UCITS (except for a venture fund) in the form of securities must have a credit rating not lower than the investment level determined by an authorized or recognized international rating agency on the National Rating Scale

- if the credit rating of the bank, which is the custodian of the assets of the UCITS (except for the venture fund) in the form of securities, fell to a speculative level on the National Rating Scale or expired, the UCITS (except for the venture fund) within three months credit rating or its invalidity is

obliged to bring its activities in line with the requirements of the law in the manner prescribed by the NSSMC; the custodian of the UCITS conducts activities in accordance with the law, on the basis of the charter and the agreement on servicing the custodian of the institute's collective investment assets with the corporate fund or the mutual fund's asset management company. At the time of concluding such an agreement, a copy of the regulations shall be provided to the custodian of the assets of the UCITS. Requirements to the agreement on servicing the UCITS shall be approved by the NSSMC

- officials of the corporate fund and the asset management company may not be officials of the custodian with whom the agreement on servicing the UCITS has been concluded

- the custodian of the assets of the UCITS is prohibited from using the assets of the UCITS to carry out its own operations

- the custodian of the assets of the UCITS is obliged to service the UCITS in compliance with the regulations and the prospectus of the issue of securities of the UCITS. To this end, the custodian of the UCITS in the manner prescribed by the agreement with the corporate fund or mutual fund asset management company, supervises compliance with transactions with the assets of the UCITS regulations, prospectus of securities of the UCITS and legislation

- the custodian of the institute's of collective investment assets informs the supervisory board of the corporate fund or the mutual fund's asset management company about any identified actions of the asset management company that do not comply with the mutual fund's securities prospectus or violate the NSSMC's Regulations, within three working days from the date of detection of the violation

- the custodian of the assets of the UCITS informs the NSSMC about any detected actions of the asset management company that do not comply with the prospectus of the securities of the UCITS or violate the law, regulations or regulations of the NSSMC. The custodian is obliged to provide such information within three working days after the violation is detected. In case of non-compliance with the above requirements, the custodian of the UCITS shall be liable for damages caused to the participants of the UCITS in accordance with the agreement on servicing the custodian of the UCITS and the law

- the custodian of the UCITS is responsible for failure to submit, late submission or submission of inaccurate information to the supervisory board of the corporate fund, mutual fund asset management company in accordance with the agreement on the custodian's assets. The custodian of the assets of the UCITS shall be liable for failure to submit, late submission or submission of inaccurate information to the NSSMC in accordance with the law

- the custodian of the institute's of collective investment assets is liable for non-performance or late performance of its duties and must indemnify the losses incurred by the UCITS and the asset management company due to non-performance or late performance by the custodian in accordance with the custodian's service agreement of the UCITS

- the custodian of the assets of the UCITS is liable for damages caused to the UCITS and / or the asset management company by the custodian of the assets of the UCITS, in accordance with the law

- the custodian of the assets of the UCITS is not liable for the obligations of the UCITS, and the UCITS is not liable for the obligations of the custodian of the assets of the UCITS. The

responsibility of the custodian of the assets of the UCITS in relation to the UCITS it serves is determined by the terms of the agreement on servicing the UCITS and this Law

– the custodian of the assets of the UCITS performs his duties until the transfer of all documents to another custodian of the assets of the UCITS and has no right to transfer, charge (delegate) his powers to third parties.

75. Are any of the following fund types subject to regulation and supervision: hedge funds, venture capital funds, social entrepreneurship funds?

At present, the legislation of Ukrainian does not contain any specific provision that regulate the functioning of the above types of funds. (Chapter 4 provisions on free movement of capital also have to be respected). Abovementioned types of funds could be established as simple investment fund.

Markets

76. Are there regulated markets? Please list them. How are such markets defined? Are there rules which limit the number of persons which have access to those markets? Can credit institutions become members of a regulated market?

According to the third part of Article 4 of the Law *On Capital Markets*, trade in financial instruments is carried out on organized capital markets and outside of them.

Organized capital markets are the regulated markets (stock, derivative contracts, money), the MTF (stock, derivative contracts) and the OTF (bonds and derivative contracts).

According to paragraph 51 of the first part of Article 2 of the Law *On Capital Markets*, a regulated market is a multilateral system managed by the operator of a regulated market and in accordance with the procedure established by the NSSMC ensures, in accordance with non-discretionary rules established by such regulated market operator and registered in the manner prescribed by the Law, the cooperation of third parties in the purchase and sale of financial instruments (derivative contracts) and the creation of organizational, technological, informational, legal and other conditions for collecting and disseminating information on the supply of financial instruments admitted to trading in such a regulated market, and the demand for them and for regular trading in such instruments, as well as provides centralized commissioning and centralized execution of transactions, including clearing of such instruments.

Pursuant to the second part of Article 51 of the Law *On Capital Markets*, the activity of organizing trade in regulated markets may be carried out exclusively by the operator of the regulated market in accordance with the procedure established by the Law and the regulations of the NSSMC.

The following entities have the status of the operator of the regulated market:

Joint Stock Company “Stock Exchange PFTS”

Joint Stock Company “Ukrainian Exchange”

Private Joint Stock Company “Ukrainian Interbank Currency Exchange”

Private Joint Stock Company “Stock Exchange “PERSPEKTIVA”.

According to the seventh part of Article 49 of the Law *On Capital Markets*, investment firms and other persons, whose participation in the bidding is provided by the law (organized capital market participants), have the right to participate in the transactions in the organized capital market.

Banks may become member of regulated market if they are authorized by the NSSMC to act as an investment firm.

Credit Unions cannot become members of a regulated market. They also have very limited options to purchase securities. According to Article 21 of the Law *On Credit Unions* a Credit Union has the right to purchase government securities named by the NBU as authorized investments and bonds of international financial institutions placed in the territory of Ukraine.

In addition to investment firms, government agencies may participate in operations in the organized capital market, if provided by the law.

77. Are there Multilateral Trading Facilities (MTFs - alternative trading venues)? Please list them. How are they defined? Which institutions can operate MTFs? Are there rules limiting access to those markets?

According to paragraph 7 of part 1 of Article 2 of the Law *On Capital Markets*, the Multilateral Trading Facility (hereinafter – the MTF) is a multilateral system managed by a multilateral trading facility operator in accordance with the procedure established by the NSSMC and the non-discretionary rules set by such MTF operator, and ensures the interaction of third parties on the purchase and sale of financial instruments (conclusion of derivative contracts), resulting in agreements (contracts), which are concluded in the manner prescribed by the Law.

According to the second part of Article 51 of the Law *On Capital Markets*, the activity of organizing trade in the MTF may be carried out exclusively by the MTF operator in accordance with the procedure established by the Law and the regulations of the NSSMC.

The MTF operator is a joint stock company, limited liability company or additional liability company that manages and operates a multilateral trading facility on the basis of a license issued by the NSSMC in accordance with paragraph 30 of the first part of Article 2 of the Law *On Capital Markets*.

The following entities have the status of the MTF operator:

Joint Stock Company “Stock Exchange PFTS”

Joint Stock Company “Ukrainian Exchange”

Private Joint Stock Company “Ukrainian Interbank Currency Exchange”

Private Joint Stock Company “Stock Exchange “PERSPEKTIVA”.

Article 53 of the Law *On Capital Markets* stipulates that the rules of operation of the MTF consist, in particular, of the admission of the bidders to the BTM.

Also, currently the NSSMC has developed a draft Resolution which will approve the Regulations on Professional Activities in the Organization of Trade in Financial Instruments (hereinafter – the draft Regulations). The draft Regulations will apply, in particular, to the MTF operators and the MTF bidders. This draft Regulations will establish the procedure for admission to the MTF trading of investment firms and other persons whose ability to participate in the trading is provided by the law.

According to the draft Regulations, the Rules of the MTF Operation are composed, in particular, of the procedure for admission to the MTF trading of investment firms and other persons whose ability to participate in the trading is provided by the law.

The operator of the organized capital market shall establish the procedure for admission of investment firms and other persons whose participation in the bidding is provided by the law to trading on the relevant organized capital market. This procedure shall be established taking into account the trading technologies used in such an organized capital market and shall include at least:

- 1) procedures for control over the sending, modification and cancellation of applications, in particular regarding their price, volume and other parameters, as well as procedures for control over the transactions
- 2) qualification requirements for the bidder's personnel who have access to the bidder's information and communication system
- 3) requirements for testing the technical and functional compatibility of the information and communication system of the bidder with the electronic trading system of the organized market operator
- 4) requirements to the policy of the bidder's use of mechanisms for terminating or restricting the operation of algorithms (in the case of this bidder's algorithmic trading)
- 5) provisions on whether the bidder has the right to provide his customers with the direct electronic access and the conditions for granting such an access.

78. Which instruments can be traded on regulated markets? What are the conditions required for the admission of these instruments to listing on the regulated markets?

In accordance with paragraph 5 of the third part of Article 49 of the Law *On Capital Markets*, the operator of a regulated market, in particular, establishes the procedure for admission of assets to trading on such a regulated market.

According to the second part of Article 49 of the Law *On Capital Markets*, any securities, including derivative securities admitted to trading on regulated stock markets, are traded on such an organized market.

Any derivative contracts admitted to trading on a regulated market of derivative contracts, as well as transactions on them are subject to trade in such an organized market.

Any money market instruments and currency values admitted to trading on a regulated money market are traded on such an organized market.

According to the second part of Article 52 of the Law *On Capital Markets*, an organized market begins to function after the NSSMC registers the rules of operation of such an organized market.

Requirements for the rules of functioning of the organized market are established by Article 53 of the Law and legal acts of the NSSMC.

Article 53 of the Law *On Capital Markets* stipulates that the rules of functioning of the regulated market consist, in particular, of the procedure for admission of assets to trading, suspension and cancellation of such admission.

Also, the NSSMC has currently developed a draft Resolution, which plans to approve the Regulations on the implementation of professional activities in the organization of trade in financial instruments (hereinafter - the draft Regulations). The draft Regulation will apply, in particular, to operators of regulated markets and bidders in regulated markets. This draft Regulation will establish the procedure and features of admission and termination of admission of securities to trading on a regulated market.

According to paragraph 2 of the first part of Article 57 of the Law *On Capital Markets*, the regulated market operator is obliged to post on its website and provide the NSSMC with information required by law and / or Regulations of the NSSMC, including, in particular, the list of assets admitted to trading in each organized market, the organization of which is carried out by such an operator.

Currently, the NSSMC has developed a draft Resolution to approve the Regulations on professional activities in the organization of trade in financial instruments (hereinafter – the draft Regulations). The draft Regulation will apply, in particular, to operators of regulated markets and bidders in regulated markets. This draft Regulation will establish the procedure for admission and termination of admission of securities to trading on the organized stock market (regulated market).

According to the draft Regulation, the procedure for admission of securities to trading on a certain organized stock market, as well as the suspension and cancellation of such admission, is established by the rules of operation of the relevant organized stock market.

Admission of securities to trading on a certain organized stock market is carried out by adding it to the list of assets admitted to trading on such an organized stock market, except as provided in this Regulation.

Admission of a securities of a foreign issuer to trading on the organized stock market may be carried out only in the case of admission of such securities to circulation on the territory of Ukraine in the manner prescribed by law.

The procedure for entering and excluding securities of a foreign issuer admitted to trading on the territory of Ukraine to the list of assets admitted to trading on the organized stock market shall be established by the rules of operation of the organized stock market.

Depositing and staying a security of a foreign issuer (except for an international financial organization) in the list of assets admitted to trading on a regulated stock market shall be carried out if the following minimum requirements are met:

- available document confirming that the security of the foreign issuer is admitted to circulation on the territory of Ukraine

- a security of a foreign issuer admitted to trading on at least one of the foreign regulated stock markets included in the List of foreign stock exchanges, on which securities of foreign issuers are to be admitted for circulation for admission to circulation in Ukraine approved by the NSSMC Resolution No. 34 dated 21 January 2021 and registered by the Ministry of Justice of Ukraine as No.379/36001 on 23 March 2021.

An application for the admission of a security (except for a security issued by a stock exchange institution) to trading on a regulated stock market may be submitted by: the issuer in the process of issuing securities; issuer of repurchased securities; tenderer for sale of securities belonging to him.

An application for admission of a security (except for a security of a foreign issuer, a stock exchange institution) to trading on a regulated stock market is submitted subject to the inclusion of such security in the list of securities subject to public offering, validity of securities prospectus approved by NSSMC, and its promulgation, except as provided by law, this Regulation and other regulations.

The person applying for inclusion of a security in the list of assets admitted to trading on a regulated stock market, shall provide the operator of the regulated stock market with the information necessary for entering and staying in the list of assets admitted to trading on the regulated stock market.

The bidder, who applies for inclusion of a security in the list of assets admitted to trading on a regulated stock market shall provide the regulated stock market operator with the issuer's written consent to include its security in the list of assets admitted to trading on a regulated stock market, and resolution to issue such a security.

The security may be excluded from the list of assets admitted to trading on a regulated stock market at the initiative of the issuer of the security (in the case of a security of a foreign issuer - also at the initiative of the initiator of inclusion of the security in the list of assets admitted to trading on a regulated stock market (if it is different from the issuer)).

If an operator of a regulated stock market receives an application to apply for admission of a security (except for a security issued by a stock exchange institution, a foreign issuer) to trading on a regulated stock market, the operator of a regulated stock market shall consider such application in accordance with its rules. Based on the results of such consideration, the operator of the regulated stock market decides to register the application or to refuse to register the application. Registration of an application for admission of a security to trading on a regulated stock market is considered admission of a security to trading on a regulated stock market.

After the registration of the application submitted by the bidder, the operator of the regulated stock market publishes on its official website the Resolution to issue the security.

Admission of a security (except for a security issued by a stock exchange institution) to trading on a regulated stock market by an operator of such market, provided that such a security is publicly offered, is the basis for admission of such security to trading by another operator of another regulated stock market.

When a security is excluded from the list of assets admitted to trading on a regulated stock market provided that such a security is publicly offered, the operator of another regulated stock market that admitted such a security to the auction must also exclude it from the list of assets admitted to trading in such a market.

The regulated stock market operator notifies the issuer of the security (except for the foreign issuer, the stock exchange institution) through the depository system of Ukraine and the initiator (s) of listing the security in the list of assets admitted to trading on the organized stock market (if different from the issuer) on inclusion of the relevant security in such list (indicating the date of introduction) no later than the next business day from the date of the relevant Resolution and publish such Resolution on its own website no later than the day of trading in such securities.

An application for admission of a security issued by an exchange-based UCITS to trading on a regulated stock market may be submitted by the issuer in the process of issuing securities; issuer of repurchased securities, bidder.

An application for admission of a foreign issuer's securities to trading on a regulated stock market may be submitted by a bidder.

If an operator of a regulated stock market receives an application for admission of a security issued by a stock exchange institution, a foreign issuer, to trading on a regulated stock market, the operator of a regulated stock market shall consider such application in accordance with its rules. Based on the results of such consideration, the operator of the regulated stock market decides to register the application or to refuse to register the application. Registration of an application for admission of a security to trading on a regulated stock market is considered admission of a security to trading on a regulated stock market.

Depositing and staying a security issued by an exchange-traded mutual investment institution in the list of assets admitted to trading on a regulated stock market is carried out in the presence of an agreement with the issuer, as well as in compliance with the following minimum requirements:

- the value of the net assets of the UCITS on the last day of the last reporting quarter is not less than UAH 2,000,000

- information on the composition of the assets of the UCITS is published daily on the website of the asset management company.

It is not allowed to add to the list of assets admitted to trading on the regulated stock market, a security (except for a security of a foreign issuer) in the case of:

- failure of the issuer to place in the database of a person who carries out activities for the disclosure of regulated information on behalf of participants in capital markets and professional participants in organized commodity markets, regular information within the period prescribed by law.

Further stay of a security (except for a security of a foreign issuer) for which a public offer has been made in the list of assets admitted to trading on a regulated stock market is possible provided that the issuer discloses such security in accordance with Articles 126-128 of the Law *On Capital Markets*.

A regulated stock market operator is obliged to ensure that every security admitted to trading on a regulated stock market can be traded fairly, orderly and efficiently.

In assessing the ability to conduct a fair, orderly and efficient securities trading, a regulated stock market operator should take into account the following information published in the securities prospectus or otherwise:

- 1) historical financial information about trading in such securities
- 2) information about the issuer
- 3) information on the state of the industry in which the issuer carries out economic activity.

In assessing the ability to conduct fair, orderly and efficient securities trading, a regulated stock market operator should consider whether the following criteria are met:

1) the characteristics of the security in relation to the rights and obligations of the issuer and the person entitled to the security (hereinafter – the terms of the security) are clear and unambiguous

2) the terms of the security allow to establish the relationship between the price of such a security and the price of the asset, monetary or other property right to which is certified by the security (hereinafter - the asset of the security)

3) information on the price of the security asset is reliable and publicly available

4) information on the valuation of the security is reliable and publicly available

5) the mechanism of formation of the price of the security ensures compliance of the price of the security and the price of the asset of such security

6) if the fulfillment of obligations under the security obliges or enables the supply of the security asset in a form other than cash settlements, there are appropriate mechanisms for exercising rights to such securities and there are appropriate mechanisms for calculating the quantity and physical delivery of this underlying asset.

When assessing the possibility of conducting fair, orderly and efficient trading in securities of the UCITS, the operator of a regulated stock market must take into account:

1) whether such securities were placed through public offering

2) whether the mechanism of securities pricing is sufficiently transparent for investors due to periodic disclosure of information on the value of net assets or information on the investment declaration of the UCITS (in the case of closed-end UCITS).

The regulated stock market operator may establish in its rules additional requirements for the deposit and stay of securities on the list of assets admitted to trading on the regulated stock market, in particular, the need for the issuer to comply with corporate governance and international financial reporting standards.

It is not allowed to enter and to be on the list of assets admitted to trading on the organized stock market, a security (except for a security of a foreign issuer) in the case of:

1) termination of the issuer, the information on which is published in the manner prescribed by law

2) non-compliance of the issuer and its security with the requirements of this Regulation

3) non-compliance of the issuer and its security with the requirements of the rules of functioning of the organized stock market, which determine the conditions of being on the list of assets admitted to trading on the organized stock market

- 4) adoption by the NSSMC of a Resolution to cancel the issue
- 5) recognition of the issue as unfair
- 6) suspension, termination of the NSSMC circulation and transactions on the issuer's security;
- 7) expiration of the security
- 8) opening of bankruptcy proceedings against the issuer, introduction of the issuer's reorganization procedure, information on which has been published in the database of the person conducting regulated information on behalf of capital market participants and professional participants in organized commodity markets
- 9) inclusion of the issuer in the list of issuers with signs of fictitiousness
- 10) publication on the NSSMC website of information on establishing the fact of absence of the issuer at the location on the basis of the act of absence of the issuer at the location
- 11) absence of financial statements of the issuer for the previous quarter (in case of existence of the issuer less than a year, as well as in case of securities of such issuer made a public offer) on the issuer's official website as of the 30th business day after the reporting quarter
- 12) suspension or cancellation of the issuer, which is an asset management company, the validity of the license to conduct professional asset management activities of institutional investors
- 13) suspension by the NSSMC of admission of a security to trading on any organized stock market
- 14) suspension of the NSSMC from making changes to the system of depository accounting of securities in respect of the issuer's security.

It is not allowed to enter and be on the list of assets admitted to trading on the organized stock market, shares of the issuer - a private joint stock company, the number of shareholders of which does not exceed 100 and whose charter provides for the preemptive right of its shareholders person, if the operator of the organized stock market has such information.

79. Which instruments can be traded on MTFs?

According to the second part of Article 49 of the Law *On Capital Markets*, any securities, including derivative securities admitted to trading on stock MTFs, are traded on such an organized market.

Any derivative contracts admitted to trading on the MTF of derivative contracts, as well as transactions in them are subject to trade in such an organized market.

According to paragraph 4 of the fourth part of Article 49 of the Law *On Capital Markets*, the MTF operator, in particular, establishes the procedure for admission of assets to trading on such MTF.

The regulated market operator is obliged to post on its own website and to provide the NSSMC with the information required by law and / or regulations of the NSSMC, including, in particular, the list of assets admitted to trading in each regulated market, which organizes its activities. Such an operator, taking into account paragraph 2 of the first part of Article 57 of the Law *On Capital Markets*.

Currently, the NSSMC has developed a draft resolution to approve the Regulations on professional activities in the organization of trade in financial instruments (hereinafter – the draft Regulations). The draft Regulations will apply, in particular, to MTF operators and MTF bidders. This draft Regulation will establish the procedure for admission and termination of admission of securities to trading on the organized stock market (MTF).

According to the draft Regulation, the procedure for admission of securities to trading on a certain organized stock market, as well as the suspension and cancellation of such admission, is established by the rules of operation of the relevant organized stock market.

Admission of securities to trading on a certain organized stock market is carried out by adding it to the list of assets admitted to trading on such an organized stock market, except as provided in this Regulation.

Admission of a securities of a foreign issuer to trading on the organized stock market may be carried out only in case of admission of such securities to circulation on the territory of Ukraine in the manner prescribed by law.

The procedure for entering and excluding securities of a foreign issuer admitted to trading on the territory of Ukraine to the list of assets admitted to trading on the organized stock market shall be established by the rules of operation of the organized stock market.

Depositing and staying a security of a foreign issuer in the list of assets admitted to trading on the stock MTF is carried out in case of compliance with the following minimum requirements:

available document confirming that the security of the foreign issuer is admitted to circulation on the territory of Ukraine

a security of a foreign issuer admitted to trading on at least one of the foreign organized stock markets included in the List of foreign stock exchanges on which securities of foreign issuers are to be admitted for circulation for admission to circulation in Ukraine approved by the NSSMC Resolution No.34 dated 21 January 2021 and registered by the Ministry of Justice of Ukraine as No. 379/36001 on 23 March 23 2021.

An application for admission of securities to trading on a stock MTF may be submitted by: the issuer, investment firm, stock MTF operator, asset management company (for securities of mutual investment institutions managed by an asset management company), another person, including including a state body that has the right to participate in bidding on the stock MTF in accordance with the law.

Admission of securities to trading on the stock MTF in the process of their issuance is granted without the issuer's public offer of such securities, provided that the MTF operator ensures the placement of such securities among a predetermined number of persons, the number of unqualified investors may not equal or exceed 150.

Depositing and staying a security in the list of assets admitted to trading on the stock MTF is subject to compliance with the following minimum requirements:

for shares:

the average value of the issuer's market capitalization is not less than UAH 6,000,000,000;

for corporate bonds, local bonds:

the average value of the issuer's market capitalization is not less than UAH 1,500,000,000.

It is not allowed to enter and be on the list of assets admitted to trading on the organized stock market, a security (except for a security of a foreign issuer) in the case of:

- 1) termination of the issuer, the information on which is published in the manner prescribed by law
- 2) non-compliance of the issuer and its security with the requirements of this Regulation
- 3) non-compliance of the issuer and its security with the requirements of the rules of functioning of the organized stock market, which determine the conditions of being on the list of assets admitted to trading on the organized stock market
- 4) adoption by the NSSMC of a resolution to cancel the issue
- 5) recognition of the issue as unfair
- 6) suspension, termination of the NSSMC circulation and transactions on the issuer's security
- 7) expiration of the security
- 8) opening of bankruptcy proceedings against the issuer, introduction of the issuer's reorganization procedure, information on which has been published in the database of the person conducting regulated information on behalf of capital market participants and professional participants in organized commodity markets
- 9) inclusion of the issuer to the list of issuers with signs of fictitiousness
- 10) publication on the NSSMC website of information on establishing the fact of absence of the issuer at the location on the basis of the act of absence of the issuer at the location
- 11) absence of financial statements of the issuer for the previous quarter (in case of existence of the issuer less than a year, as well as in case of securities of such issuer made a public offer) on the issuer's official website as of the 30th business day after the reporting quarter
- 12) suspension or cancellation of the issuer, which is an asset management company, the validity of the license to conduct professional asset management activities of institutional investors
- 13) suspension by the NSSMC of admission of a security to trading on any organized stock market
- 14) suspension of the NSSMC from making changes to the system of depository accounting of securities in respect of the issuer's security.

It is not allowed to enter and be on the list of assets admitted to trading on the organized stock market, shares of the issuer - a private joint stock company, the number of shareholders of which does not exceed 100 and whose charter provides for the preemptive right of its shareholders person, if the operator of the organized stock market has such information.

80. Can EU-issuers be listed on regulated markets?

Yes, securitites issued by EU based issuers could be traded on Ukrainian regulated markets after fulfilling following requirements.

Article 53 of the Law *On Capital Markets* stipulates that the rules of functioning of the regulated market consist, in particular, of the procedure for admission of assets to trading, suspension and cancellation of such admission.

Also, the NSSMC has currently developed a draft resolution, which plans to approve the Regulations on the implementation of professional activities in the organization of trade in financial instruments (hereinafter – the draft Regulations). The draft Regulation will apply, in particular, to operators of regulated markets and bidders in regulated markets.

According to the draft Regulation, the procedure for entering and excluding securities of a foreign issuer admitted to trading on the territory of Ukraine to the list of assets admitted to trading on a regulated market is established by the rules of operation of the regulated market.

At the same time, the draft Regulation stipulates that the deposit and stay of a security of a foreign issuer (except for an international financial organization) in the list of assets admitted to trading on a regulated stock market are carried out if the following minimum requirements are met:

- available document confirming that the security of the foreign issuer is admitted to circulation on the territory of Ukraine

- a security of a foreign issuer admitted to trading on at least one of the foreign regulated stock markets included in the List of foreign stock exchanges on which securities of foreign issuers are to be admitted to trading for admission to circulation in Ukraine approved by the NSSMC Resolution No. 34 dated 21 January 2021 and registered by the Ministry of Justice of Ukraine as No. 379/36001 on 23 March 2021.

Supervisory authorities

81. As regards the regulatory and supervisory framework, what are the main features of the legislation on the Securities Market?

The Law of Ukraine *On Capital Markets*, which provides the regulation of the securities market, consists of thirteen sections, namely:

Section I “General Provisions” contains articles defining the scope of the Law, defining terms, legal bases for the functioning of capital markets and organized commodity markets, a list of participants in capital markets and organized commodity markets with a description of relations between them. In addition, this section contains rules for qualified and unqualified investors, as well as a list of financial instruments.

Section II “Securities” contains provisions on the main features of securities - shares, bonds, treasury obligations of Ukraine, investment certificates, savings certificates of banks, certificates of deposit of banks, promissory notes, as well as option certificates, stock warrants, credit notes, depository receipts, mortgages and government derivatives.

Section III “Derivative contracts and their types” contains provisions on the settlement of relations connected to derivative contracts, in particular by defining the concept of «derivative

contract», their classification and the main mechanisms for concluding derivative contracts in regulated markets and beyond.

Section IV “Conclusion and execution of financial instruments and transactions with” contains provisions on the settlement of the transfer of rights to securities and rights to securities, features of concluding and executing derivative contracts and transactions in financial instruments, the conversion of securities. In addition, the section provides for the settlement of the issue of finality of settlements under derivative contracts, transactions in financial instruments, transactions in currency values and commodity transactions, as well as the issue of liquidation netting.

Section V “Professional activities in the capital markets and organized commodity markets” contains a list and description of professional activities in the capital markets and organized commodity markets, the combination of certain professional activities, a description of the requirements for professional participants and their activities, in particular, a description of responsibilities to customers, as well as the licensing of professional activities in the capital markets and organized commodity markets.

Section VI “Activities related to capital markets and organized commodity markets” describes the activities of providing information services in the capital markets and organized commodity markets, and the activities of the trade repository, the implementation of which requires authorization, requirements for persons, who intend to carry out such activities, as well as the procedure for their authorization. In addition, this section regulates the functioning of the institution of related agents - business entities that on the basis of agency agreements perform actions related to the direct conduct of professional activities in the capital markets by investment firms with which such firms have entered into agency agreements.

Section VII “Issue and Circulation of Securities” contains provisions on the settlement of relations connected to the issue of securities, including the definition of stages of issue of securities, the procedure for registration of securities issues, requirements for the prospectus for public offering of securities and their admission to trading on the regulated stock market, determining the exceptions, for which the prospectus is not required, as well as determining the validity of the securities prospectus and the procedure for amending it, requirements for the language and content of information to be contained in the prospectus, disclosure of information contained in the prospectus securities, and more.

Section VIII “Meeting of Bondholders and Administrator” contains provisions on the settlement of issues concerning meetings of bondholders and the activities of the administrator for the issuance of bonds, namely: competence of the meeting of bondholders and the decision-making process, rights and responsibilities of the person responsible for fees, circumstances of default, the order of appointment of the administrator and termination of his powers, the requirements for the contract of appointment of the administrator, the rights and obligations of the administrator, his responsibilities and features of his actions and transactions to protect the rights and interests of bondholders. Also, the provisions of this section define the functions of depository institutions and the Central Securities Depository, when holding meetings of bondholders, summarizing the results of voting on them, payment of funds received in the process of debt collection from the issuer or the person providing collateral for bonds.

Section IX “Disclosure of information in capital markets and organized commodity markets” contains provisions of the concept of regulated information, requirements for disclosure of regulated

information, as well as regular and special information about the issuer, features of disclosure by foreign issuers and certain categories of issuers, information contained in the system of depository accounting of securities. In addition, this section regulates the issue of maintaining and disclosing professional secrecy in the capital markets and organized commodity markets.

Section X “Regulation of Capital Markets and Organized Commodity Markets” contains provisions on the regulation of state regulation of capital markets and organized commodity markets, as well as the NSSMC with the National Commission for State Regulation of Energy and Utilities, the Anti-Monopoly Committee of Ukraine and the NBU.

Section XI “Association of Professional Participants in Capital Markets” contains provisions on regulating the functioning of associations of professional participants in capital markets, the procedure for such associations to acquire the status of self-regulatory organization, as well as defining the powers of association of professional participants in capital markets and self-regulatory organization participants in capital markets.

Section XII “Counteracting Abuse in Capital Markets and Organized Commodity Markets” contains provisions that regulate the issues of counteracting the illegal disclosure and use of insider information, as well as manipulation in organized markets. In addition, this section regulates the issue of probing capital markets.

Section XIII “Final and Transitional Provisions” contains provisions that regulate the issues of entry into force and features of the implementation of certain provisions of this Law.

Is supervision considered to be satisfactory?

Ukrainian legislation regulating the NSSMC's supervision of capital markets needs to be improved and brought into line, in particular, with the provisions of EU Regulation № 596/2014 (MAR) and MiFIR and CRD as well as the IOSCO Principles.

As in banking (above), what steps are planned to address potential problems of co-operation between supervisors on a consolidated basis?

In accordance with the Agreement on Information Cooperation between the NSSMC and the NBU No.114/14 dated 30 December 2013, the exchange of information on the activities of participants in capital markets and organized commodity markets is carried out on a regular basis.

Article 141 of the Law *On Capital Markets* stipulates that organizational and procedural issues of cooperation in supervising professional participants in capital markets that are banks, determined by the information interaction between the NSSMC and the NBU. In view of this norm, the preparation of the Procedure for Information Interaction between the NSSMC and the NBU has begun, which will review the list of information, method and timing of information exchange.

82. Describe the powers and duties of supervisory authorities on the securities sector (to carry out on the-spot inspections, to require supplementary information, to cooperate with third countries authorities).

Control activities in the capital markets and organized commodity markets

One of the main elements of state regulation in the field of professional activity in the capital markets and organized commodity markets is the control over activities in this area by the NSSMC conducting scheduled and unscheduled on-site inspections.

The Law *On State Regulation of Capital Markets* stipulates the following powers of the NSSMC in the field of control:

- to establish the procedure for conducting inspections and registration of their results, in accordance with which to conduct independently or together with other relevant bodies to inspect the activities of professional participants in capital markets and organized commodity markets, subjects of the funded pension system (except depositors and participants) according to their self-regulatory organizations of professional participants in capital markets, as well as inspections of issuers' activities on the state of corporate governance and the implementation of operations on the issue and circulation of securities

- to conduct, independently or jointly with other relevant bodies, inspections of legal entities that have received a license under Article 4 of this Law and expired or revoked for compliance with the legislation governing the actions of such legal entities in case of expiration or revocation of their licenses. Such verification may be carried out for no more than three years from the date of expiration (revocation) of the indicated license

- to independently or jointly with other relevant bodies to conduct inspections of persons engaged in professional activities in the capital markets and organized commodity markets for compliance with legislation on the protection of the rights of consumers of financial services

- to send via official channels the obligatory orders to eliminate violations on capital markets and organized commodity markets, legislation on the protection of the rights of consumers of financial services and legislation on joint stock companies to issuers, subjects of the funded pension system (except for depositors and participants) and persons engaged in professional activities in the capital markets and organized commodity markets, and self-regulatory organizations required to comply with, as well as require the provision of the necessary documents in accordance with the law

- require explanations (in writing and orally), documents, information from government agencies, stock market participants or any other natural or legal persons who carry out (expressed intention to carry out) transactions in the securities market and / or which may be known circumstances related to the subject of the inspection

- in order to prevent and combat offenses in the capital markets based on international cooperation on a reciprocal basis to provide and receive information on the functioning of capital markets, which is not a state secret and does not lead to the disclosure of professional secrets.

- Authorized persons of the NSSMC have the right:

to enter enterprises, institutions, organizations on the basis of an official certificate and have access to documents and other materials necessary for the inspection; to require the necessary

documents and other information in connection with the exercise of their powers; to involve, in coordination with the relevant central and local executive bodies, local authorities and self-government bodies, enterprises and associations of their specialists, deputies of local councils (with their consent) for inspections and audits; to demand, within the limits of their competence, from officials of enterprises, institutions, organizations to provide written explanations.

In order to exercise the powers defined by the Law *On State Regulation of Capital Markets*, the NSSMC adopted the Resolution *On approval of the Procedure for conducting inspections in the field of professional activity in the stock market (securities market) and activities in the system of funded pension provision* No. 708 dated 24 November 2020.

Conducting on-site inspections is one of the measures to implement the tasks of the NSSMC in accordance with the Law of Ukraine *On State Regulation of Capital Markets*.

In accordance with generally accepted IOSCO principles, the regulator of capital markets and organized commodity markets should have the power to inspect, investigate and supervise, gather evidence that capital market participants have signs of wrongdoing, and take measures to prevent violations of the law. The regulatory system should provide effective and equitable methods of inspections, investigations and oversight.

On-site scheduled (unscheduled) inspections are carried out in order to:

1. clarification of the purpose and essence of operations carried out by licensees, the Central Securities Depository

2. identification of risks that may pose a threat to the security and sustainability of licensees, the Central Securities Depository, as well as the stability of the financial system of Ukraine

3. quality assessment of the risk management system of licensees, the Central Securities Depository

4. checks of observance by the licensees, the Central Securities Depository of securities of the rights of clients (depositors, consumers of financial services, depositors, participants)

5. inspections of compliance with the law by the subjects of inspection (except for SROs and the Central Securities Depository) in case of revocation of the license

6. inspections of compliance with the functions assigned to self-regulatory organizations

7. assessment of the subject's compliance with the requirements of the legislation on the securities market, in the system of funded pension provision, legislation on the protection of the rights of consumers of financial services, including regulations of the NSSMC.

Which authority is in charge of supervising regulated markets and MTFs? Is it an independent authority? Which entities are subject to its supervision? Does the supervisory authority publish an annual report? Are supervisory authorities bound to secrecy as to information received from third countries competent authorities in particular?

State regulation and supervision of organized capital markets is carried out by the NSSMC. Organized capital markets are regulated markets (stock, derivative contracts, money), MTF (stock, derivative contracts) and OTF (bonds and derivative contracts).

Organized market operator is an organized capital market operator (regulated market operator, MTF operator, organized trading facility operator) and organized commodity market operator (commodity exchange).

The NSSMC consists of the Commission as a collegial body and a central office.

The Chairman, Commissioners, executives and specialists of the central apparatus and relevant territorial bodies **are civil servants**.

Regulations on the NSSMC are approved by the President of Ukraine.

The NSSMC is formed as a collegial body consisting of the Chairman of the NSSMC and six Commissioners.

The Chairman of the NSSMC and Commissioners are appointed and dismissed by the President of Ukraine by issuing an appropriate decree.

State regulation of capital markets and organized commodity markets is carried out in cases and within the limits established by law, in the following forms:

- adoption of legislative acts on the activities of participants in capital markets and organized commodity markets
- supervision, regulation and control over the implementation of rights and obligations of participants in capital markets and organized commodity markets
- regulation of the issuance, circulation, redemption and repayment of securities, conclusion and execution of derivative contracts and execution and performance of transactions in other financial instruments
- issuance of licenses for the relevant type of activity within the professional activity in the capital markets and organized commodity markets, as well as ensuring control over such activities
- prohibition of professional activity in the capital markets and organized commodity markets in case of absence of a license for such activities or suspension of such activities for a certain period (up to one year) in accordance with law, as well as prosecution for violating the rules of such activities by the law
- registration of securities issues, reports on the results of securities issue and approval of securities prospectuses
- control over the issuers' compliance with the procedure for registration of securities issue, report on the results of securities issue and approval of the securities prospectus
- creation of a system of protection of the rights of investors in financial instruments and control over the observance of these rights by issuers of securities and persons engaged in professional activities in the capital markets
- control over the accuracy and completeness of information disclosure by issuers and persons engaged in professional activities in the capital markets and organized commodity markets;
- establishing rules and standards for operations in capital markets and organized commodity markets, as well as monitoring compliance with such rules and standards

– prudential supervision over professional participants in capital markets and organized commodity markets within the activities carried out by such participants on the basis of issued by the NSSMC

– registration of specifications of derivative contracts, which are concluded on the organized market of derivative contracts

– control over the activities of persons carrying out in activities related to capital markets and organized commodity markets

– carrying out other measures in accordance with the law.

The NSSMC issues licenses for the following types of activities in accordance with the procedure established by it within the **relevant types of professional activity in the capital markets**:

- 1) sub-brokerage activities
- 2) brokerage activities
- 3) dealer activity
- 4) financial instrument portfolio management activities
- 5) investment consulting
- 6) underwriting
- 7) placement activities with the provision of a guarantee
- 8) placement activities without offering guarantee
- 9) activities on the organization of securities trading on the regulated stock market
- 10) activities on the organization of concluding derivative contracts on the regulated market of derivative contracts
- 11) activity on the organization of trade in money market instruments on the regulated money market
- 12) activities on the organization of securities trading on the stock multilateral trading facility
- 13) activities on the organization of the conclusion of derivative contracts on the multilateral trading facility of derivative contracts
- 14) activities on the organization of trade in bonds on the organized trading facility of bonds
- 15) activities on the organization of the conclusion of derivative contracts on the organized trading facility of derivative contracts
- 16) asset management activities
- 17) mortgage management activities
- 18) depository activity of the depository institution
- 19) activities for storage of assets of collective investment institutions
- 20) activities for the storage of pension funds' assets

- 21) clearing activities to determine liabilities
- 22) clearing activities of the central counterparty
- 23) property management activities to finance construction and / or real estate transactions
- 24) activities for the provision of services in the accumulative system of compulsory state pension insurance
- 25) activities on administration of non-state pension funds.

The NSSMC shall issue licenses for professional activities in organized commodity markets in accordance with the procedure established by it:

- 1) activities for the organization of trade in products on commodity exchanges
- 2) activities to organize the conclusion of derivative contracts on commodity exchanges.

In accordance with the Law *On State Regulation of Capital Markets*, the NSSMC informs the public about its activities and the state of development of the securities market, publishes and provides information on request in accordance with the Law *On Access to Public Information*.

Annually, the NSSMC publishes annual reports on the NSSMC's official website¹³.

Professional secrecy in the capital markets and organized commodity markets (hereinafter – professional secrecy) is information about the activities and / or financial condition of the client, as well as other information provided for in part two of article 134 of the Law *On Capital Markets* which became known:

- 1) a professional participant in the capital markets and organized commodity markets in the process of customer service in conducting professional activities in the capital markets and organized commodity markets
- 2) third parties while carrying out their activities related to capital markets and organized commodity markets
- 3) third parties who provide services or perform work in accordance with the agreements concluded with the persons specified in paragraphs 1 and 2 of this part
- 4) the NSSMC, the NBU, and other public authorities in accordance with their powers.

2. Professional secrecy, in particular, is information and data:

- 1) on customer accounts
- 2) on transactions carried out for the benefit or on behalf of the client of a professional participant, on transactions made by the client of a professional participant
- 3) on a client of a professional participant, except for the one received from public sources;
- 4) contained in the depository accounting system
- 5) contained in the clearing accounting system

¹³ <https://www.nssmc.gov.ua/about-us/annual-reports/#page-4>

6) reporting data of the participant of the capital markets and the professional participant of the organized commodity markets, except for those which are subject to disclosure according to the legislation

7) on the means used by a professional participant in capital markets and organized commodity markets and persons carrying out activities related to capital markets and organized commodity markets to protect information

8) on participants in capital markets and professional participants in organized commodity markets or their clients, received from such participants and professional participants by public authorities

9) on professional participants of capital markets and organized commodity markets, their clients, transactions carried out by them, received by the NSSMC in accordance with an international agreement or on the principle of reciprocity from the regulator of capital markets and organized commodity markets of another state.

Information constituting professional secrecy is provided by the persons specified in paragraphs 1-3 of the first part of Article 134 of the Law *On Capital Markets* and (professional participant in capital markets and organized commodity markets in the process of customer service while performing professional activities on capital markets and organized commodity markets, a third party in the course of its activities related to capital markets and organized commodity markets; a third party who provides services or performs work in accordance with agreements concluded with the persons referred to above), by a relevant court decision or upon a written request received from, in particular: the central executive body implementing state tax policy, at its request on availability of securities accounts and / or in the cases and to the extent specified in the Agreement between the Government of Ukraine and the Government of the United States of America to improve compliance with tax rules and application of US FATCA On Tax Requirements for Foreign Accounts and other international agreements, containing provisions on the exchange of information for tax purposes, the binding nature of which has been approved by the Verkhovna Rada of Ukraine, or interdepartmental agreements concluded on their basis. The procedure for disclosing such information shall be established by the NSSMC.

Persons referred to in paragraphs 1-3 of the first part of Article 134 of the Law *On Capital Markets* (professional participant in capital markets and organized commodity markets in the process of customer service in professional activities in capital markets and organized commodity markets; the third party while carrying out its activities related to capital markets and organized commodity markets; the third party, who provides services or performs work in accordance with agreements concluded with the persons mentioned above) have the right to provide information of professional secrecy to the court, arbitration court, international commercial arbitration to protect their rights and legitimate interests in cases, participants in which they are, in Ukraine and abroad.

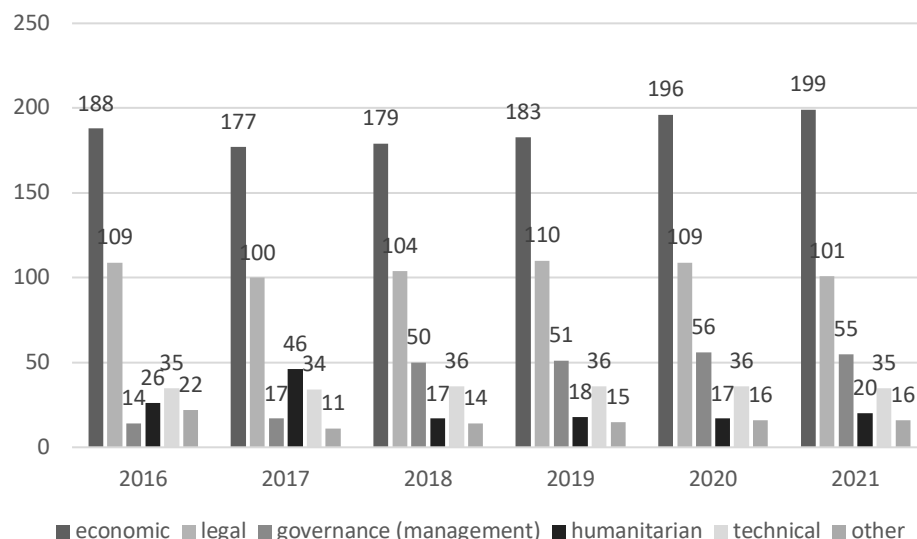
In accordance with an international agreement of Ukraine or on the principle of reciprocity, the NSSMC has the right to provide information constituting a professional secret collected in the performance of its functions to the supervisory body of another state and to receive relevant information from such supervisory body of another state. The NSSMC has the right to disclose information that is a professional secret and was obtained by it from the supervisory authority of another state, only with the consent of such authority.

How many people are employed by these supervisory authorities? What are the professional qualifications required?

The personnel as of March 1, 2022 accounts 425 people.

As of January 1, 2022, the staff structure by the level of education had the following indicators: out of all NSSMC's employees - 96.72% (413 people) had higher education degrees ; 3.04% (13 people) had incomplete or basic higher education or secondary special education, 10 employees of the NSSMC have a scientific degree.

Distribution of employees of the NSSMC by educational areas as of December 31, 2021.



The vast majority of the NSSMC's employees have an economic and legal education. Civil servants with other areas of education mainly ensure the implementation of the tasks of non-functional units, such as information technology, international cooperation, administrative activities, logistics and financial support. Considerable attention is paid to the development of employees, as a result of this work the NSSMC has 126 employees with two higher educations, which is 29.5% of the account number of employees of the central office, and 16 employees with three higher educations, which is 3,75% of the account number of employees of the central office, 2 more employees have four higher educations, which is 0.47% of the account number of employees of the NSSMC. In 2021, 4 civil servants study in higher education institutions and receive higher or second higher profile education.

What is its budget?

In accordance with the Law of Ukraine No. 1928-IX *On the State Budget of Ukraine for 2022* dated 02 December 2021 in 2022 NSSMC was appointed chief administrator of the state budget and approved expenditures for a total amount of 260 914 400 UAH, and in accordance with the Decree of the President of Ukraine No 64 dated 24 February 2022 *On the Imposition of Martial Law in Ukraine*, the Resolution of the CMU No. 401 *On the allocation of funds to the reserve fund of the state budget* dated 01 April 2022, changes were made in the financing of the NSSMC, as of April 20, 2022 the balance, taking into account changes, is 22 5597 900 UAH, and accordingly at the NBU exchange rate 7 133 767 EUR.

83. What are the powers of intervention of the supervisory authority in cases of investment firms in difficulties?

At present, the legislation of Ukraine does not provide effective powers of the NSSMC “to interfere” in the activities of investment firms.

At the same time, draft Law No. 5865 proposes to provide the powers to the NSSMC to “interfere” in the activities of investment firms, namely:

- to prohibit transactions with financial instruments
- to prohibit the performance of managerial functions by a person who performs managerial functions
- to raise with the controller / owner of substantial participation in professional participants of capital markets and organized commodity markets (except banks) the issue of dismissal / removal from office of persons performing managerial functions in such participants, in cases of non-compliance of persons performing managerial functions with legal requirements established for such persons
- to prohibit being a participant in trading on the organized capital markets
- to issue a resolution on the appointment of a temporary head of the executive body of a professional participant in capital markets (except for the bank)
- to send the requirement to take measures

84. How is the supervisory authority's operational independence ensured?

The provisions of the legislation of Ukraine, in terms of ensuring the operational independence of the domestic regulator of capital markets, need to be aligned with the IOSCO Principles.

In order to guarantee the independence and capacity of the domestic regulator of capital markets, draft Law No. 5865, in particular, provides for:

- protection of the NSSMC from any illegal influence, pressure, interference in its activities
- consolidation of the peculiarities of the procedure for adoption, entry into force and appeal of acts of the NSSMC
- establishing the specifics of financing and logistical support of the NSSMC, in particular ensuring the adequacy of resources to ensure the effective implementation of functions on regulation and stability of sources of financing of the NSSMC, and independence in the distribution of such resources
- settlement of the issue of inspections and investigations by the NSSMC
- improving the law enforcement procedure.

85. What are the supervisory authority's investigative powers?

Currently, the Ukrainian legislation does not contain rules that provide the NSSMC with the authority to investigate capital markets.

The issue of NSSMC investigations is proposed to be regulated in draft Law No. 5865.

Regarding the “investigation” of manipulation in organized markets. This draft law brings NSSMC’s powers and tools in line with international standards, in particular, in line with IOSCO MMoU. Also, the relevant EU acquis such as MAR are going to be implemented by this draft law.

Investigation of manipulation as a criminal offense under Art. 222-1 of the Criminal Code of Ukraine referred to the competence of law enforcement authorities.

86. Is the supervisory authority capable of imposing administrative sanctions and measures?

Sanctions or other measures of influence provided by the current legislation are applied to legal entities for offenses in the capital markets and organized commodity markets. In particular, the Law *On State Regulation of Capital Markets* establishes liability (sanctions or other measures of influence) for violations in capital markets and/or organized commodity markets.

Article 32 of the AML/CFT Law provides that violation by the subject of primary financial monitoring of legislative requirements in the sphere of prevention and counteraction to legalization (laundering) of proceeds of crime, terrorist financing and the financing of the proliferation of weapons of mass destruction, which are regulated and supervised by the NSSMC.

For administrative offenses related to violations of the law on capital markets and organized commodity markets, failure to comply with legal requirements of officials of state financial monitoring to eliminate violations of legislation to prevent and combat money laundering, terrorist financing and financing the proliferation of weapons of mass destruction or creating obstacles to the performance of their duties, administrative penalties are imposed in accordance with the Code of Ukraine *On Administrative Offenses*.

The procedure and terms of consideration by the NSSMC of cases on offenses in capital markets and organized commodity markets are determined by the Rules of consideration of cases of violation of capital markets and organized commodity markets, sanctions or other measures of influence approved by the NSSMC's Resolution No. 405 dated 28 July 2020 and registered in the Ministry of Justice of Ukraine as No. 966/35249 on 2 October 2020.

The procedure and terms of consideration by the NSSMC of cases of violation of legislation in the field of prevention and counteraction to legalization (laundering) of proceeds from crime, terrorist financing and financing of proliferation of weapons of mass destruction are determined by the Rules of consideration of cases of violation of legislation on prevention and counteraction legalization (laundering) obtained by criminal means, financing of terrorism and financing of proliferation of weapons of mass destruction and application of measures of influence approved by the NSSMC Resolution No. 227 dated 6 April 2021 and registered by the Ministry of Justice of Ukraine as No. 637/36259 on 13 May 2021.

CHAPTER 10. INFORMATION SOCIETY AND MEDIA

I. ELECTRONIC COMMUNICATIONS AND INFORMATION TECHNOLOGIES

A. Basic data

1. Please provide basic data on the state of the electronic communications services market.

Information provided by the national regulatory authority (NRA) - the National Commission for State Regulation in the Field of Electronic Communications, Radio Frequency Spectrum and Provision of Postal Services (NCEC) (until 13.02.2022 - the National Commission for State Regulation in the Field of Communications and Informatization (NCCIR), NCEC is the legal successor to NCCIR).

According to the Register of Operators, Telecommunication Providers maintained by the NCEC, as of 31.12.2021, 4760 economic entities, of which 2201 operators and 2580 providers of electronic communications services.

Business entities and their share
(quantitative structure), %,
as of 31.12.2021

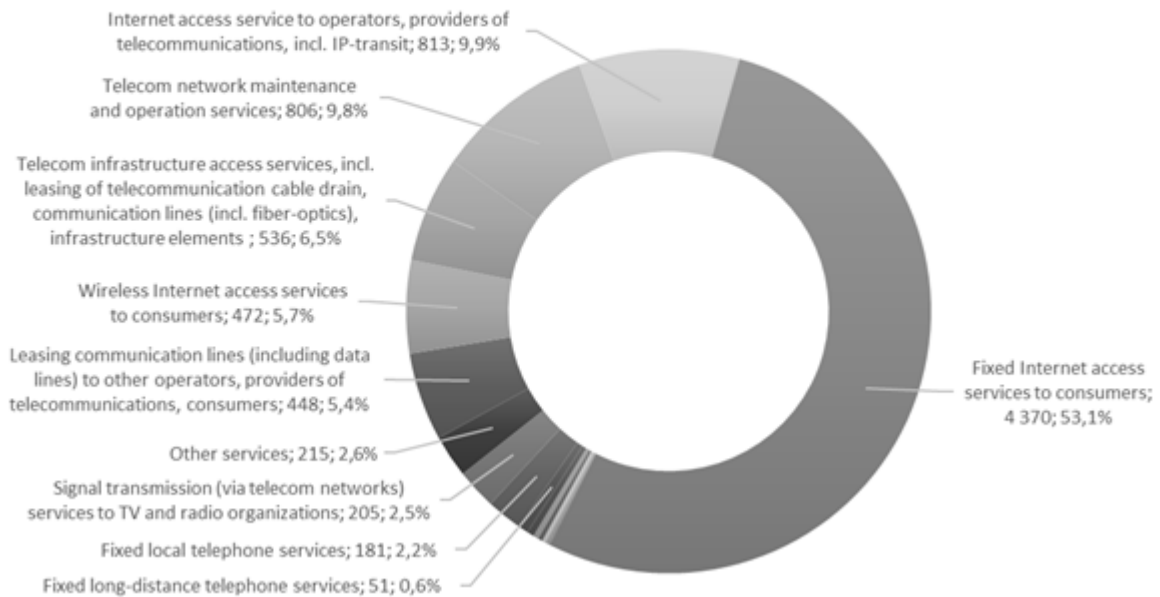


2 201 operators
46,0%



2580 providers
54,0%

Structure of the Register of operators, providers of telecommunications, in terms of services provided



Actual number of consumers of electronic communications services

Indicator	2017	2018	2019	2020	2021
Number of active SIM-cards, thousand units as of 31.12. of the respective year	56 133	54 007	54 843	53 978	55 926
Number of fixed Internet access lines (points), thousand units as of 31.12. of the respective year	6 246*	6 159*	7 265	7 769	8246**
Number of fixed telephone lines, thousand units as of 31.12. of the respective year	7 181*	6 069*	4 178	3 314	2 283

* According to the State Statistics Service of Ukraine

** Data as of 30.09.2021 as under martial law only 73% of operators, electronic communications providers of the total number of economic entities

Availability (penetration) of electronic communications services to the population

Indicator	2019	2020	2021
Mobile telephony penetration rate (SIM-cards per 100 inhabitants*), as of 31.12. of the respective year	128,2	129,4	135,9

Fixed Internet access penetration rate (per 100 inhabitants*), as of 31.12. of the respective year	46,3	52,4	56,2**
Fixed telephony penetration rate (subscribers per 100 inhabitants*) as of 31.12. of the respective year	9,9	8,1	4,5

** Data excludes Crimea and Sevastopol, as well as part of the temporarily occupied territories in Donetsk and Luhansk regions.*

*** Data as of 30.09.2021.*

During 2019-2021, 181 100 mobile numbers were ported between networks in Ukraine, of which 38 700 numbers were ported in 2019, 66 000 - in 2020 and 76 400 - in 2021.

Total revenues from the provision of electronic communications services, thousand UAH

Company name	Indicator	Share, %
Private Joint Stock Company “Kyivstar”	28 594 860,5	35,3
Private Joint Stock Company “VF Ukraine”	19 220 521,5	23,7
Limited Liability Company “lifecell”	8 385 076,9	10,3
Public Joint Stock Company “Ukrtelecom”	5 298 224,2	6,5
Limited Liability Company “VOLIA-KABEL”	2 025 465,4	2,5
Private Joint Stock Company “DATAGROUP”	1 356 683,7	1,7
Limited Liability Company “TELESVIT”	558 892,7	0,7
Concern of Radio Broadcasting, Radio Communications and Television (RRT)	557 765,9	0,7
Private Joint Stock Company “FARLEP-INVEST”	507 748,6	0,6
Limited Liability Company “CONTENT TRADING”	442 625,1	0,5
Limited Liability Company “INTERNATIONAL TELECOMMUNICATIONS”	301 578,3	0,4

Limited Liability Company “CONTENT DELIVERY NETWORK”	298 310,0	0,4
“KYIVSKI TELEKOMUNIKATSIYNI MEREZHI” LLC	290 660,0	0,4
Limited Liability Company “FREENET”	274 575,1	0,3
Limited Liability Company “COMPATEL UKRAINE”	211 639,4	0,3
Others	12 725 266,4	15,7

Revenues from the provision of mobile communication services to consumers, thousand UAH

Company name	Indicator	Share, %
Private Joint Stock Company “Kyivstar”	26 586 175,3	49,73
Private Joint Stock Company “VF UKRAINE”	19 076 911,9	35,68
Limited Liability Company “lifecell”	7 405 592,0	13,85
Limited Liability Company “INTERNATIONAL TELECOMMUNICATIONS”	183 915,8	0,34
Limited Liability Company “TriMob”	177 840,8	0,33
Limited Liability Company “Lyca Mobile Ukraine”	17 354,8	0,03
Private Joint Stock Company “TELESYSTEMS OF UKRAINE”	11 299,5	0,02
Limited Liability Company “CLOUDNETS”	494,0	0,001

Revenues from the provision of fixed telephone services to consumers, thousand UAH

Company name	Indicator	Share, %
Public Joint Stock Company “Ukrtelecom”	2 138 859,8	50,4
Limited Liability Company “lifecell”	961 198,7	22,7

Private Joint Stock Company “Kyivstar”	429 207,0	10,1
Private Joint Stock Company “FARLEP-INVEST”	250 088,8	5,9
Private Joint Stock Company “”DATAGROUP”	153 141,1	3,6
Limited Liability Company “INTERNATIONAL TELECOMMUNICATIONS”	93 760,8	2,2
Limited Liability Company “Wnet Ukraine”	29 016,9	0,7
Limited Liability Company “BINOTEL”	26 960,8	0,6
Limited Liability Company “UKRCOM”	24 254,2	0,6
Limited Liability Company “O-2”	11 625,9	0,3
Others	124 027,4	2,9

Revenues from the provision of fixed access to the Internet, thousand UAH

Company name	Indicator	Share, %
Public Joint Stock Company “Ukrtelecom”	1 986 511,9	12,5
Private Joint Stock Company “Kyivstar”	1 355 098,9	8,6
Limited Liability Company “VOLIA-KABEL”	820 114,2	5,2
Private Joint Stock Company “DATAGROUP”	681 512,0	4,3
Limited Liability Company “TELESVIT”	415 452,7	2,6
Limited Liability Company “FREENET”	274 575,1	1,7
Limited Liability Company “SCIENTIFIC-INDUSTRIAL COMPANY “HomeNet”	195 726,3	1,2

Limited Liability Company “BUSINESS AND TECHNOLOGIES”	154 834,5	1,0
State company “UKRAINIAN ACADEMIC AND RESEARCH NETWORK”	152 884,8	1,0
Private Joint-Stock Company “FARLEP-INVEST”	143 627,9	0,9
Private company “Dykyy Sad”	143 291,1	0,9
LANET NETWORK LTD	110 868,1	0,7
Others	9 394 922,7	59,4

Revenues from the provision of cable ducts, thousand UAH

Company name	Indicator	Share, %
Public Joint Stock Company “Ukrtelecom”	121 880,9	94,4
Private Joint Stock Company “DATAGROUP”	1 815,0	1,4
Joint Stock Company “Ukrainian Railways”	966,3	0,7
Limited Liability Company “SATELIT”	919,0	0,7
Limited Liability Company “UTEAM”	600,4	0,5
Limited Liability Company “RADIONETWORK”	576,5	0,4
(Individual entrepreneur) Mykola Semenovych Zhyvodor	282,8	0,2
Additional Liability Company “ZV'YAZOK”	254,0	0,2
Limited Liability Company “TV-radio company “KTV-Plyus”	249,4	0,2
Limited Liability Company “VELTON.TELECOM”	168,3	0,1

Private Joint Stock Company “FARLEP-INVEST”	166,0	0,1
Others	1 270,5	1,0

Revenues from the provision of electronic communications lines, electronic communications networks and / or their fragments, including the provision of optical lines, including “dark” fibers and virtual lines created using xWDM technology, thousand UAH

Company name	Indicator	Share, %
Limited Liability Company “KYIVSKI TELEKOMUNIKATSIYNI MEREZH”	290 660,0	46,8
LANET NETWORK LTD	65 574,3	10,6
Public Joint Stock Company “Ukrtelecom”	47 591,6	7,7
Limited Liability Company “Atracom”	39 964,0	6,4
Limited Liability Company “MCLAUT- INVEST”	23 243,9	3,7
Limited Liability Company “NVO INFORMATION TECHNOLOGIES”	10 925,0	1,8
Private Joint Stock Company “DATAGROUP”	9 984,0	1,6
Limited Liability Company “LMDS”	8 977,6	1,4
Limited Liability Company “MCLAUT-CHS”	8 807,0	1,4
Limited Liability Company “OKOM”	8 200,4	1,3
Others	107 114,6	17,2

2. Please describe the Information and Communication Technologies (ICT) market (basic data).

The change of revenues from electronic communications services in 2017-2021 shows an increase over this period, with revenues from electronic communications services in 2021 increasing by 10% compared to 2020.

Revenues of operators, providers from electronic communications services provided for 2017-2021

Indicator	2017	2018	2019	2020	2021
Revenues from electronic communications services, UAH million**	51 128*	56 475*	66 422	73 688	81 021
including:					
- Mobile communications, UAH mln**	31 479	34 978	41 868	46 943	53 460
- Fixed Internet access, UAH mln**	7 322*	8 136*	11 688	13 870	15 807
- Fixed telephony, UAH mln**	5 139*	4 786*	4 606	4 485	4 242
- Other services, UAH mln**	7 188*	8 575*	8 260	8 390	7 512

* According to the State Statistics Service of Ukraine

** Revenues are given excluding VAT, in mln. UAH

In 2021, revenues from the provision of electronic communications services amounted to 81021 mln UAH. In the structure of revenues from the provision of such services, the largest shares were represented by mobile communications - 66.0% and fixed-line Internet access - 19.5%. Mobile communications showed the highest growth rate - the difference in its share of revenues in 2021 as compared to 2020 is 2.3%.

The total amount of revenues from the provision of services for the use of telecommunication lines and infrastructure in 2021 amounted to 7 512 mln UAH, with revenues from the provision of other services for electronic communications activities accounting for the largest share in the structure of revenues - 50.6%.

Ex ante market regulation

According to Annex XX to the EU-Ukraine Association Agreement (Indicative list of relevant markets to be analysed), 17 markets are identified in electronic communications, the list of which has

been approved by NCCIR decision dated 11.12.2018 No 640 "On approval of the Procedure for analysis of certain electronic communications services markets and identification of operators, electronic communications providers with significant market power (*hereinafter* - *SMP*) in the markets of such services".

These markets are:

Retail level

1. Access to the public telephone network at a fixed location for residential customers.
2. Access to the public telephone network at a fixed location for non-residential customers.
3. Publicly available local and/or national telephone services provided at a fixed location for residential customers.
4. Publicly available international telephone services are provided at a fixed location for residential customers.
5. Publicly available local and/or national telephone services provided at a fixed location for non-residential customers.
6. Publicly available international telephone services are provided at a fixed location for non-residential customers.
7. The minimum set of leased lines (which comprises the specified types of leased lines up to and including 2Mb/sec).

Wholesale level

8. Call origination on the public telephone network provided at a fixed location.
9. Call termination on individual public telephone networks provided at a fixed location.
10. Transit services in the fixed public telephone network.
11. Wholesale unbundled access (including shared access) to metallic loops and sub-loops for the purpose of providing broadband and voice services.
12. Wholesale broadband access.
13. Wholesale terminating segments of leased lines.
14. Wholesale trunk segments of leased lines.
15. Access and call origination on public mobile telephone networks.
16. Voice call termination on individual mobile networks.
17. The wholesale national market for international roaming on public mobile network.

In order to implement the EU-Ukraine Association Agreement and to ensure effective competition in the relevant electronic communications markets, during 2019-2021, the NCCIR, within the authority defined by the Law of Ukraine "On Telecommunications", conducted the analysis of 12 markets.

List of certain markets for specific electronic communications services, the results of their analysis and the list of electronic communications operators / providers with significant market power in the markets for such services

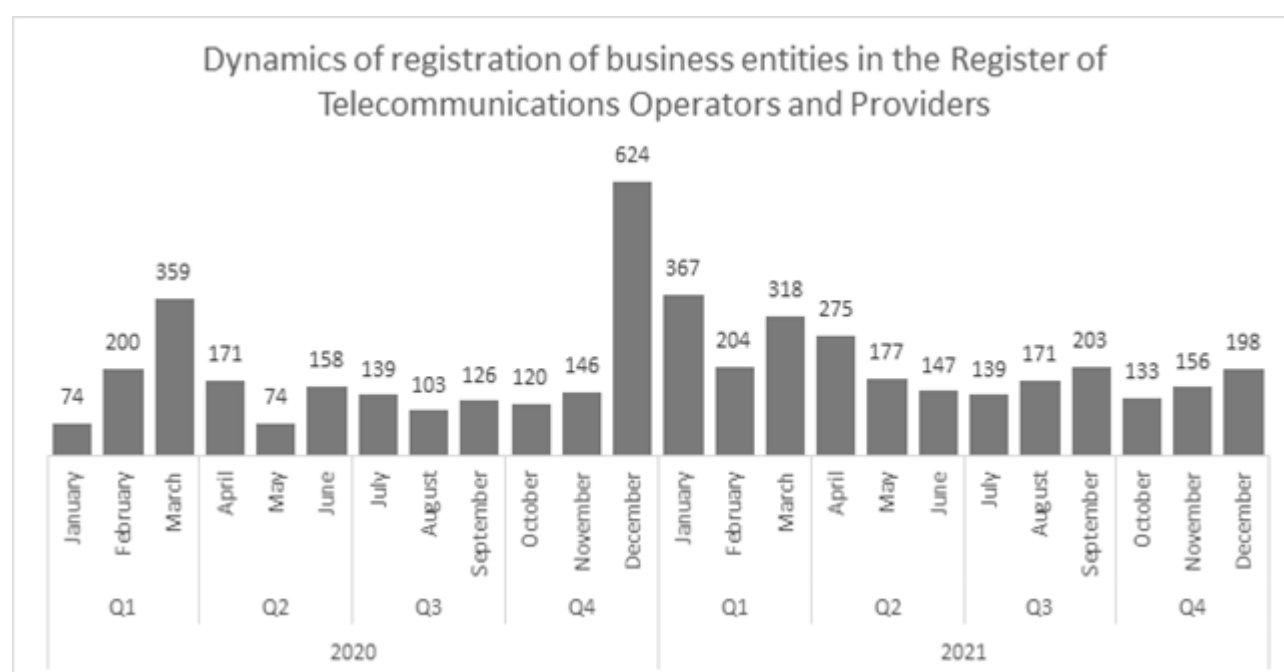
No.	Name of the service market	Start of market analysis (No. and date of NCCIR decision)	Result of market analysis (No. and date of NCCIR decision)	SMP-operators / providers*
Retail services markets				
1	Access to the public telephone network at a fixed location for residential customers	No. 33 28.01.2020	No. 476 08.12.2020	JSC Ukrtelecom (in 22 regions and Kyiv)
2	Access to the public telephone network at a fixed location for non-residential customers			JSC Ukrtelecom (in 22 regions and Kyiv); PJSC Kyivstar (in 2 regions and Kyiv); PJSC "FARLEP-INVEST" (1 region)
3	Publicly available local and/or national telephone services provided at a fixed location for residential customers		No. 477 08.12.2020	Not defined (economically competitive market)
4	Publicly available local and/or national telephone services provided at a fixed location for non-residential customers			Not defined (economically competitive market)
5	Publicly available international telephone services provided at a fixed location for residential customers		No. 445 17.11.2020	Not defined (economically competitive market)
6	Publicly available international telephone services provided at a fixed location for non-residential customers			Not defined (economically competitive market)

				competitive market)
7	The minimum set of leased lines (which comprises the specified types of leased lines up to and including 2Mb/sec	No. 50 09.02.2021	No. 403 26.10.2021	Not defined (economically competitive market)
Wholesale services markets				
8	Call origination on the public telephone network provided at a fixed location	Not conducted	-	-
9	Call termination on individual public telephone networks provided at a fixed location	No. 278 11.06.2019	No. 424 17.09.2019	168 operators
10	Transit services in the fixed public telephone network	No. 437 24.09.2019	No. 11 14.01.2020	JSC Ukrtelecom
11	Wholesale unbundled access (including shared access) to metallic loops and sub-loops for the purpose of providing broadband and voice services	No. 242 23.06.2020 No. 205 01.06.2021	No. 543 30.12.2021	Not defined (economically competitive market)
2	Wholesale broadband access			Not defined (economically competitive market)
3	Wholesale terminating segments of leased lines	Not conducted	-	-
4	Wholesale trunk segments of leased lines	Not conducted	-	-
5	Access and call origination on public mobile telephone networks	Not conducted	-	-
6	Voice call termination on individual mobile networks	No. 278 11.06.2019	No. 455 01.10.2019	6 operators

7	The wholesale national market for international roaming on public mobile network	Not conducted	-	-
---	--	---------------	---	---

**For more information – see annex to relevant NCCIR decision.*

Considering the results of the analyses of certain electronic communications markets, a general conclusion can be made that the Ukrainian electronic communications markets are highly competitive and open to the entry of alternative suppliers of electronic communications networks and/or services, which is indicated by the dynamics of electronic communications business entities' registration in 2020-2021:



At present, under Section XII "Electronic Communications Market Analysis" of the Law of Ukraine "On Electronic Communications" (the Law), in force since 1 January 2022, the analysis of electronic communications markets is to be performed and it is planned to determine whether a certain electronic communications market is subject to the imposition of regulatory obligations.

Currently, within the framework of the Law, the draft Procedure for Identification and Definition of Markets in Electronic Communications Services and the draft Procedure for Analysis of Markets of Certain Electronic Communications Services are being developed and should be completed by October 2022.

After the adoption of the above mentioned regulations and termination of the implemented martial law, when the peace comes to Ukraine, it is planned to analyse five electronic communications markets, as follows:

- market 8 "Call origination on public telephone network provided at a fixed location";
- market 13 "Wholesale terminating segments of leased lines";

- market 14 "Wholesale trunk segments of leased lines";
- market 15 "Access and call origination on public mobile telephone networks";
- market 17 "The wholesale national market for international roaming on public mobile network".

B. Legislative and institutional framework

3. Please describe the legislative framework of the sector, with reference to primary and secondary legislation.

Legislative framework of the electronic communications (EU legislation)

The Association Agreement between Ukraine and the EU¹⁴ was signed in 2014 and entered into force in September 2017, which provided for a number of commitments to implement European legislation in the field of electronic communications. In the AA/DCFTA, the Electronic Communications sector is covered by Annex XVII-3, which was amended on 22 November 2021 by Decision №1/2021 of the EU/Ukraine Association Committee in Trade Configuration¹⁵. Implementation of the legislation could enable Ukraine access to the EU internal markets, including one of the most attractive in terms of opportunities of the EU Digital Single Market. Ukraine's integration into the EU Digital Single Market is of the highest priority for Ukraine, for which the Government is taking all the necessary measures to achieve this ambition. Action Plan for implementation of the Association Agreement and Roadmap for integration into the EU Digital Single Market¹⁶ reflect the deadlines for the implementation of commitments in the field of electronic communications.

On 16 December 2020, Verkhovna Rada of Ukraine approved the Law of Ukraine "On Electronic Communications" – the core law in electronic communication area, which entered into force on 01 January 2022 and is aimed at novation of the obsolete Ukrainian legislation in the area of electronic communications and radiofrequency resources (or radio spectrum as per the new law). The Laws of Ukraine "On Telecommunications" and "On Radiofrequency Resource" were repealed. The new law also adjusts existing legislation to comply with the latest EU regulations on electronic communications and fulfils Ukraine's obligations under the Association Agreement between Ukraine and EU. The Law of Ukraine "On Electronic Communications" included adoption of a separate law on a national regulatory authority Law of Ukraine "On National Commission carrying out state regulation in the field of electronic communications, radio frequency spectrum and provision of postal services" which determines its functions according to EU law.

Laws (primary legislation):

- The Law of Ukraine "On Electronic Communications", which entered into force on 01.01.2022 and defines the legal and organisational basis of the state policy in the fields of electronic

¹⁴ <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A22014A0529%2801%29>

¹⁵ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A22021D2219>

¹⁶ <https://docs.google.com/document/d/1oL9WQ7deZegM9dDfm-xShia1STvxPgoq/edit>

communications and radio frequency spectrum, as well as the rights, duties and responsibilities of natural and legal persons involved in the relevant activities or using electronic communications services ;

- The Law of Ukraine "On National commission for the state regulation electronic communications, radio frequency spectrum and provision of postal services" (hereinafter - Law on NCEC), in force since 13.02.2022, defines the legal status of the National Commission for the State Regulation Electronic Communications, Radio Frequency Spectrum and Provision of Postal Services (hereinafter - NCEC, the NRA), its tasks, competences, powers and procedures for their implementation. The NCEC is the successor of the National Commission for the State Regulation of Communications and Informatization (NCCIR).

- The Law of Ukraine "On Access to the Facilities of Construction, Transport, Electric Power Industry for the Purpose of Development of Electronic Communications Networks", which determines the legal, economic and organisational basis for providing access to the infrastructure of construction, transport, electric power industry, cable conduit of electric communications, house distribution network for the location of technical means of electronic communications in order to ensure development of information society in Ukraine, sets out the powers of public authorities, bodies;

- The Law of Ukraine "On Basic Principles of State Supervision (Control) in the Sphere of Economic Activity", which determines legal and organisational principles, basic principles and procedure of state supervision (control) in the sphere of economic activity, powers of state supervision (control) authorities, their officers and rights, obligations and responsibility of business entities in the exercise of state supervision (control), and pursuant to which, with peculiarities determined by the Law of Ukraine "On Electronic Communications”

- The Law of Ukraine "On the Concept of the National Informatization Program”;

- The Law of Ukraine "On the National Informatization Program”;

- The Law of Ukraine "On the State Service of Special Communications and Information Protection of Ukraine”;

- The Law of Ukraine "On Television and Radio Broadcasting", "On Technical Regulations and Conformity Assessment”;

- The Law of Ukraine "On Standardization”;

- The Law of Ukraine "On Metrology and Metrological Activity”;

- The Law of Ukraine "On Consumer Rights Protection" and others.

Strategic acts:

Currently there is no strategy for electronic communications in Ukraine (draft is under development), but some strategic acts set out Ukraine's goals and policies in this area:

- Cabinet of Ministers’ Action Plan

- The Government's priority action plan for 2021

- The work plan of the Ministry of Digital Transformation of Ukraine for 2021
- Action Plan for the Implementation of the National Strategy for Building safe and healthy educational environment in the New Ukrainian School for 2022
- Action plan for the implementation of the State Program of Economic Stimulation to overcome the negative effects caused by restrictive measures to prevent the occurrence and spread of acute respiratory disease COVID-19 caused by coronavirus SARS-CoV-2, for 2020-2022
- Action plan for the development of broadband Internet access for 2021-2022
- Strategy of economic security of Ukraine for the period up to 2025
- State Strategy for Regional Development for 2021-2027
- National Economic Strategy until 2030
- National strategy for creating a barrier-free space in Ukraine until 2030

Current by-laws (secondary legislation):

- Resolution of the Cabinet of Ministers of Ukraine № 107 "Issues of Ensuring the Implementation of the Law of Ukraine "On Electronic Communications" of 9 February 2022;
- Resolution of the Cabinet of Ministers of Ukraine № 355 "On Approval of the Technical Regulation on Radio Equipment" of 24 May 2019;
- Order of the Cabinet of Ministers of Ukraine № 1189-p "On Approval of the Action Plan on Improvement of the Quality of Mobile Services" of 30 September 2020;
- Order of the Administration of the State Service of Special Communications and Information Protection of Ukraine, Ministry of Defence of Ukraine № 338/435 of 25 June 2013;
- Decision of the National Commission for State Regulation of Communications and Informatization №392 "On Approval of the Regulation on the Procedure for Interaction between Public Authorities in the Implementation of International Legal Protection of the Radiofrequency Resources of Ukraine" of 25 June 2013, registered by the Ministry of Justice of Ukraine on 17 July 2013 under № 1192/23724.
- Action plan for the release of radio frequency bands 790-862 MHz, 694-790 MHz from radio-electronic means of the broadcasting service (television) for the introduction of LTE technology approved by the Order of the Cabinet of Ministers of Ukraine dated November 18, 2020, No. 1457-p;
- Action plan for the implementation of the fifth generation mobile communication system in Ukraine approved by the Order of the Cabinet of Ministers of Ukraine dated November 11, 2020 No. 1409-p;
- Action plan to create conditions for the development of mobile broadband access approved by the Order of the Cabinet of Ministers of Ukraine dated December 4, 2019 No. 1272-p;
- Resolution of the Cabinet of Ministers of Ukraine "Issue of providing a subvention from the state budget to local budgets for the implementation of measures aimed at improving the availability of broadband Internet access in rural areas" dated April 28, 2021 No. 453;
- On the distribution in 2021 of subventions from the state budget to local budgets for the

implementation of measures aimed at improving the availability of broadband Internet access in rural areas approved by the Order of the Cabinet of Ministers dated June 9, 2021 No. 622-p

- Resolution of the Cabinet of Ministers of Ukraine "On Approval of the Rules for Provision and Receipt of electronic communications services" of 11.04.2012 No. 295 (as amended) ;

- Resolution of the Cabinet of Ministers of Ukraine "On Approval of the National Table of Radio Frequency Band Allocation of Ukraine" of 15.12.2005 No. 1208 (as amended) ;

- Resolution of the Cabinet of Ministers of Ukraine "On Approval of the Plan of Use of Radio Frequency Resource of Ukraine" of 09.06.2006 No. 815 (as amended) ;

- Resolution of the Cabinet of Ministers of Ukraine No. 253 of 04.04.2018 "On Approval of Rules for Provision of Access to Telecommunications Cable Channel Infrastructure" ;

- Resolution of the Cabinet of Ministers of Ukraine of 18.07.2018 No. 586 "On Approval of Rules for Provision of Access to the Infrastructure of the Transport Object" ;

- Resolution of the Cabinet of Ministers of Ukraine No. 610 of 18.07.2018 "On Approval of the Rules on Provision of Access to the Infrastructure of the Construction Object";

- Resolution of the Cabinet of Ministers of Ukraine No. 611 of 18.07.2018 "On Approval of Rules on Provision of Access to the Infrastructure of the House Distribution Network" ;

- Resolution of the Cabinet of Ministers of Ukraine of 18.07.2018 No. 853 "On Approval of Rules for Provision of Access to the Electricity Distribution Network Infrastructure";

- Resolution of the Cabinet of Ministers of Ukraine "On Approval of the Amount of Fee for Number Resource Allocation and Procedure for its Payment" of 27 December 2008 No. 1147;

- Resolution of the Cabinet of Ministers of Ukraine "On the Amount of Fee for Issuance, Renewal, Renewal, Issue of Duplicates of Licences for Use of Radio Frequency Resources of Ukraine" of 22 February 2006 No. 200.

Current by-laws (secondary legislation) undergoing or planned for updating due to the introduction of new legislation:

The recent adoption of the new primary legislation in the field of electronic communications and radio frequency spectrum (the Law of Ukraine "On Electronic Communications" and the Law on NCEC), requires an update of the secondary legislation, namely the by-laws implementing the areas covered by new laws. The process of amending the already existing regulations to comply with new primary legislation, also the developing new drafts has already started and follows the requirements of electronic communications framework, such as holding public consultations, etc.

It should be noted that in order to develop the necessary draft normative legal acts corresponding the new primary legislation, the elaboration of which is attributed to the competence of the NCEC, a relevant Working Group was established by order of the Chairman of the NCEC, which determined the total number of draft normative legal acts to be developed, the order of priority for drafting of normative legal acts and also directly carried out the development of such draft documents.

- Regulation on Radio Frequency Monitoring in Public Radio Frequency Bands (Decision of NCCR dated 16.07.2009 No. 1599) ;
- Procedure for carrying out works to identify and eliminate sources of interference in public radio frequency bands (NCCR Decision of 19.04.2007 No. 695);
- Rules for provision of telecommunication cable ducts for use (NCCIR Decision No. 428 of 23.08.2012);
- Maximum tariffs for lending of cable ducts to telecommunication operators (NCCIR Decision of 30.12.2013 No. 861);
- Instruction on processing materials on administrative offences in the National Commission, which carries out state regulation in the field of communications and informatization (NCCIR Decision of 26.12.2017 No. 670);
- Rules for providing information to consumers (users) by a radio equipment manufacturer on the availability of permit requirements for operation of radio-electronic means or emitting devices and other parameters of radio frequency resource use in Ukraine (NCCIR Decision No. 77 of 13.02.2018);
- Methodology for Determining Fees for Access to Elements of Telecommunications Cable Channel Infrastructure (NCCIR Decision No. 203 of 10.04.2018);
- Form of providing the central executive authority implementing the state tax policy with information on issued licences for the use of radio frequency resource of Ukraine for each payer of the rental fee for the use of radio frequency resource, calculating the amount of the rental fee in accordance with position 11 of paragraph 254.4 of Article 254 of the Tax Code of Ukraine (NCCIR decision of 06.04.2021 No. 139);
- Procedure for traffic routing in the public telecommunication network of Ukraine (NCCIR Decision No. 324 dd. 05.07.2012);
- Procedure for Provision of Subscriber Number Portability Services (NCCIR Decision No. 394 dated 31.07.2015);
- Procedure for regulating tariffs for the provision of cable ducting for telecommunications operators (NCCIR Decision No. 540 dd. 25.10.2012);
- Regulation of tariffs for universal postal services (NCCIR Decision No. 260 dd. 23.05.2017);
- Maximum tariffs for universal postal services (NCCIR Decision No. 413 dated 02.11.2021);
- Procedure for setting settlement fees for traffic transmission services to telecommunications networks of telecommunications operators with significant market power (NCCIR Decision No. 295 dated 07.06.2016);
- Procedure for mutual settlements between telecommunications operators for services of access to public telecommunications networks (NCCIR Decision of 09.07.2009 No. 1586);
- Settlement fees for traffic transmission services to telecommunications networks of telecommunications operators with significant market power on markets for traffic transmission services and Marginal settlement fees for transmission services of incoming international voice telephony traffic to telecommunications networks of telecommunications operators with significant market power on markets № 456 dated 30.08.2016).

Planned primary legislation:

- Draft Law of Ukraine on Amendments to Section V Final Provisions of the Law of Ukraine On Regulation of Urban Development on simplification of placement of technical means of electronic communications (has been already voted by the Verkhovna Rada, pending for signing by the President);

The draft relates to the regulation of town-planning activity and, in particular, to the concerning simplification of placement of technical means of electronic communications. The adoption of the draft act will speed up the process of allocating land plots for the placement of technical means of electronic communications, which will provide faster coverage of the territory of Ukraine with fourth-generation mobile communications and mobile broadband Internet access. *EU law to be implemented:* doesn't contain legislation related to European integration obligations.

- Draft Law on Amendments to the Law of Ukraine "On Electronic Communications";

The purpose is to harmonise the legal norms of the Law "On Electronic Communications" with the EU legislation, the Tax Code of Ukraine. *EU law to be implemented:* implementation of Articles 2 to 6 of Regulation (EU) 2015/2120 of the European Parliament and of the Council of 25 November 2015 laying down measures concerning open internet access and amending Directive 2002/22/EC on universal service and users' rights relating to electronic communications networks and services and Regulation (EU) No 531/2012 on roaming on public mobile communications networks within the Union.

- Draft Law on Amendments to Article 17 of the Law of Ukraine on Access to Construction, Transport and Electricity Facilities for the Development of Telecommunication Networks on Simplification of Placement of Telecommunication Infrastructure Facilities;

The draft law is aimed at eliminating legal collisions. The draft law also provides for a reduction in the maximum amount of access fees. *EU law to be implemented:* doesn't contain legislation related to European integration obligations.

- Draft Law on Amendments to Article 15 of the Law of Ukraine "On Lease of State and Municipal Property" concerning the Peculiarities of Lease of Electronic Communications Operators;

The draft aims to implement Directive 2014/61/EU of the European Parliament and of the Council of 15 May 2014 on measures to reduce the cost of deploying high-speed electronic communications networks. The draft's purpose is to regulate the procedure for obtaining a lease of property related to deploying elements of high-speed electronic communications networks. The draft act proposes to amend the Law on Lease to simplify getting the property for rent by electronic communications operators. *EU law to be implemented:* implementation of Directive 2014/61/EU of the European Parliament and of the Council of 15 May 2014 on measures to reduce the cost of deploying high-speed electronic communications networks.

- Draft Law on Amendments to the Tax Code of Ukraine to Regulate the Accrual and Payment of Rent for the Use of Radio Frequency Spectrum in Ukraine;

The purpose is to regulate the procedure for accrual and payment of rent for the use of radiofrequency spectrum in Ukraine, to bring it in line with the principles enshrined in the Law "On Electronic Communications". The draft law aims to establish a mechanism for determining, calculating, and paying rent for the use of the radiofrequency spectrum. In particular, in connection with changes in legislation that occurred with the entry into force of Law № 1089-IX, which should consider the projected increase in rent use of radio frequency spectrum to ensure the development of a competitive market for electronic communications. *EU law to be implemented:* doesn't contain legislation related to European integration obligations.

- Draft Law on Amendments to Certain Legislative Acts Regulating Land Relations.

The purpose is to establish a mechanism for providing land to construct digital infrastructure for use on the right of land easement. Also, to determine the possibility of obtaining land for the construction of digital infrastructure for rent without changing the purpose of such land and reducing the allocation of land to host digital infrastructure facilities. Amendments to the legislation should include a reduction in the procedure for reviewing documents and decision-making and publication of draft decisions within the procedure for allocating land for lease to construct digital infrastructure. Also, it introduces a mechanism for obtaining land on the right of a land easement to lease them for the construction of digital infrastructure. *EU law to be implemented:* doesn't contain legislation related to European integration obligations.

Planned secondary legislation:

1. By the central executive bodies in the field of electronic communications and radio frequency spectrum

The relevant sets of by-laws that are to be developed by MDTU during 2022 include several by-laws for the implementation of the Law on Electronic Communications, as well as by-laws to the existing CMU Resolutions. There are around 100 by-laws that should be adopted, amended or recalled as obsolete. The Ministry of the Digital Transformation of Ukraine prepared a list of by-laws that are top priority:

- Electronic communications development strategy;
- Rules for providing and receiving electronic communication services;
- Fees for issuance, reissuance and extension of the term of licences for radio frequency spectrum use;
- Criteria and their significance for determining the price affordability of universal services;
- Procedure for holding a competition for the deployment of electronic communication networks for ensuring the availability of universal services;
- Procedure for free of charge access to state and municipal property infrastructure facilities (in the relevant territory) suitable for the deployment (creation) of electronic communication networks by electronic communication service providers selected at the competition for the deployment of electronic communication networks for ensuring the availability of universal services;
- Procedure for ensuring the accessibility of electronic communication services for persons with disabilities;
- Radio Frequency Resource Conversion Plan of Ukraine;

- Methodology of radio frequency spectrum rent calculation;
- Procedure for application of the compensation mechanism in case of release or restriction of the use of previously allocated radio frequency spectrum, including calculation of its cost and attraction of budgetary and/or extrabudgetary funds for this purpose;
- Procedure for compensation to special users of costs associated with the conversion, with the attraction of extrabudgetary funds;
- Criteria and performance indicators for the radio frequency spectrum use for certain radio technologies in the relevant radio frequency bands.

Several EU projects, such as the TAIEX mission, planned to share European expertise regarding drafting of these by-laws with Ukrainian governmental representatives. However, after the beginning of the war, the project was postponed.

The Administration of the State Service of Special Communications and Information Protection of Ukraine is going to develop:

- Order "On approval of the methodology for calculating electromagnetic compatibility, taking into account the documents of the International Telecommunication Union";
- Order "On approval of norms of frequency-territorial diversity to ensure electromagnetic compatibility of radio equipment / radiating devices for joint use by various radio technologies and radio services of general and special users".

2. *By the national regulatory authority*

Draft normative legal acts to be developed directly by NCEC (indicative list (total number - over 37) and title of drafts taking into account Article 4 of the Law on NCEC), including:

- procedure for temporary use of radio equipment;
- procedure for identification and definition of electronic communications markets;
- procedure for provision of access to physical infrastructure of electronic communications for high-speed network deployment
- procedure for monitoring the quality of electronic communications services;
- procedure for organising and participating in a tender or auction for a licence to use the radio frequency spectrum;
- procedure for carrying out works on revealing, eliminating and/or stopping radio interference sources, procedure for interaction with special users and law enforcement bodies, economic entities when carrying out the respective works;
- procedure for implementing radio frequency monitoring;
- procedure for maintaining the register of primary numbering resources;
- procedure for drawing up and issuing international and regional operational documents for ship or amateur radio stations, requirements for the qualifications of radio amateurs and operators of such stations;
- terms and conditions for joint use of radio equipment, radio frequency bands (denominations);

procedure for approval of the transfer of rights to use the radio frequency spectrum;
 regulations on amateur radio communications of Ukraine;
 Marginal tariffs for the provision of electronic communications network cable channels for use;
 rules for granting and obtaining access to cable ducts of electronic communications networks;
 rules for granting use of cable duct of electronic communications networks;
 procedures for provision of information, control over fulfilment of requirements for adequate risk management in order to ensure information security, cyber protection of electronic communications facilities, radio frequency spectrum and postal services;
 procedures for multilateral consultations with market participants, other stakeholders;
 provisions on the electronic regulatory platform;
 procedure for maintaining the register of radio frequency spectrum licences;
 procedure for maintaining the register of radio frequency assignments of common users;
 determining the conditions of licences for the use of the radio frequency spectrum and monitoring compliance with them;
 definition of parameters of radio equipment, in compliance with which electromagnetic compatibility calculations are not required;
 definition of the list of radio equipment, the operation of which is carried out from the assignment of radio frequencies;
 definition of technical characteristics and conditions of operation of radio equipment, emitting devices according to the principle of universal authorization;
 criteria for classifying radio equipment as prohibited for import and use in Ukraine, decision-making on classifying certain types or types of radio equipment as prohibited for import and use in Ukraine
 determination of unified wholesale reference rates for national traffic termination (connection termination) for mobile voice communications and unified reference rates for national traffic termination for fixed voice communications as well as procedure for settlement of accounts applying such rates
 establishment of ceiling tariffs for provision of cable ducts, rules for access to cable ducts and rules for their provision for use;
 rules for interconnection of electronic communications networks and basic requirements for contracts for interconnection of electronic communications networks;
 traffic routing procedure for the provision of interpersonal electronic communications services, using numbering;
 procedure of identification of end-users by providers of electronic communications services;
 forms of regulatory reporting by providers of electronic communications networks and services, common users of radio frequency spectrum, postal service providers and instructions on their completion, deadlines and procedures for submission;

procedure for interaction between the National Commission carrying out state regulation in the fields of electronic communications, radio frequency spectrum and provision of postal services with the National Police of Ukraine regarding joint activities to identify the owners of illegally operating electronic communications equipment/emitting devices and their removal, as well as elimination of violations of legislation on electronic communications and radio frequency spectrum;

procedure for using the radio frequency spectrum for the needs of diplomatic missions, consular offices of foreign states, representative offices of international organisations in Ukraine and military units of foreign states temporarily residing in Ukraine, as well as for the needs of foreign broadcasting organisations in covering sports, cultural and other events in Ukraine

procedure for assignment of radio frequencies to radio electronic facilities and emitting devices used by special users in public radio frequency bands (common RI with the General Staff of the Armed Forces of Ukraine);

establishing fees for the issuance, renewal and extension of permits for the use of numbering resources (to be approved by the Cabinet of Ministers of Ukraine);

procedure and forms of keeping the unified state register of postal operators;

procedure and forms of keeping the register of radio equipment and emitting devices.

In addition, relevant work will be carried out to adopt other regulatory legal acts stipulated by the Law of Ukraine "On Electronic Communications".

4. Please describe the institutional framework of the sector, with reference to government bodies, the role of the parliament and the role of representative organisations of public and private sector players and of consumers.

Law of Ukraine "On Electronic Communications" defines the division of main competencies in the field of electronic communications among the Cabinet of Ministers of Ukraine, the central executive body in the fields of electronic communications and radio frequency spectrum, as well as national regulatory authority – National Commission for the State Regulation of Electronic Communications, Radio Frequency Spectrum and the Provision of Postal Services.

According to provisions of the Law of Ukraine "On Electronic Communications", **the Cabinet of Ministers of Ukraine** - the supreme body in the system of executive authorities, which, inter alia, ensures implementation of the state policy in the fields of electronic communications and radio frequency spectrum; directs and coordinates within its powers the activities of ministries, other central executive authorities in the field of electronic communications and radio frequency spectrum; exercises, pursuant to the law, management of state property and ensures equal conditions for development of all forms of ownership.

The National Commission for the State Regulation of Electronic Communications, Radio Frequency Spectrum and the Provision of Postal Services (NCEC) is a central body of executive power with a special status that is formed by the Cabinet of Ministers of Ukraine. NCEC carries out state regulation, state supervision (control) in order to achieve a balance of interests of users, state,

economic entities carrying out activities in the field of electronic communications, radio frequency spectrum and postal services, ensures the security of electronic communications, development of competition, integration of Ukrainian markets in these areas into the markets of the European Union.

At the moment, the formation and implementation of state policy in the field of electronic communications and radio frequency spectrum is carried out by the **Administration of the State Service of Special Communications and Information Protection of Ukraine (SSSCIP)** – a central body of executive power with a special status, the activity of which is directed and coordinated by the Cabinet of Ministers of Ukraine and ensures formation and implementation of the state policy in the fields of organisation of special communication, information protection, cyber protection of telecommunications and use of radio-frequency resource of Ukraine.

However, on 09 February 2022, the Cabinet of Ministers of Ukraine adopted a resolution regarding reform of central executive body in the fields of electronic communications and radio frequency spectrum according to the new Law on Electronic Communications. As follows, the administration of the State Service for Special Communications and Information Protection shall ensure the exercise of the powers of the central executive body in the field of electronic communications and radio frequency spectrum until 30 June 2022. The Ministry of Digital Transformation shall become the central executive body in the field of electronic communications and radio frequency spectrum from 01 July 2022.

After this reform the main task of SSSCIP will be to provide government and special, courier communications, in accordance with the focus of the SSSCIP on ensuring the national security of Ukraine and staying in the security and defence sector of Ukraine.

The Ministry of Digital Transformation of Ukraine (MDTU) currently is the main body in the system of central executive bodies, which ensures the formation and implementation of state policy in the areas of digitalization, digital development, digital economy, digital innovation, e-government and e-democracy, information society development, informatization development of broadband Internet infrastructure and telecommunications, e-commerce and business in the field of IT industry development.

The division of powers in the field of electronic communications is also an important step towards regulating this area according to European standards and further integration of Ukraine into the Digital Single Market.

The Verkhovna Rada of Ukraine carries out legislative work, performs control functions, approves the state budget and amendments to it (in particular, expenditures on the development of broadband and electronic communications), approves national development programs. It is worth highlighting the **Committee on Digital Transformation**, which carries out both legislative activities in the field of electronic communications, and ensures that the rights and interests of participants in the field of electronic communications are taken into account during the legislative activities of the Verkhovna Rada. The Verkhovna Rada Committee on Digital Transformation carries out strategic digital leadership initiatives and legislation work on: principles of digitalization and digital society in Ukraine; national and state informatization programs; EU Digital Single Market (EU4Digital) and other digital cooperation programs; innovations in the field of digital entrepreneurship, development of the startup ecosystem; research centres in the field of digital technologies; digital industry and telecommunications; e-government and public e-services; e-democracy; electronic trust services and digital identification; state information and analytical systems, electronic document management;

state information resources, electronic registers and databases; e-commerce (e-trading, e-business); virtual assets, blockchain and tokenization; smart infrastructure (cities, communities, etc.); development of the "open data" sphere; radio frequency spectrum; development of the orbital economy; legal principles of administration, functioning and use of the Internet in Ukraine; cybersecurity and cyber protection, including in the field of critical infrastructure; technical and cryptographic protection of information; development of digital competencies, digital rights.

The General Staff of the Armed Forces of Ukraine is the main military authority for state defence planning, strategic planning of the Armed Forces of Ukraine and exercises, in particular, the authority to regulate in the sphere of radio frequency spectrum use by special users; participates in the development and approval of the radio frequency spectrum allocation and use plan in Ukraine, the radio frequency spectrum conversion plan in accordance with this Law; determines the possibility of use by special users of specific types of radio-electronic means and radiating devices on the territory of Ukraine and keeps a register of radio-electronic means and radiating devices for special purposes; manages the use of radio-frequency spectrum by special and general users during and in conditions of emergency or martial law in the manner prescribed by the Cabinet of Ministers of Ukraine.

In addition, a number of private sector organisations operate in Ukraine. Thus, in order to unite businesses whose activities are related to the development and functioning of the telecommunications services market and to ensure direct participation in the preparation, development and examination of draft laws and other regulations on telecommunications, as well to enable participation in the formation of a legal framework which considers inputs of operators in the field of telecommunications (electronic communications) in Ukraine are active:

- **The Ukrainian Telecom Operators Association “Telas”**, the purpose of which is to protect the rights and lawful interests of Ukrainian telecom operators, support their development conditions, facilitate the reform of the telecommunications industry and development of the telecommunications market;

- **Internet Association of Ukraine (InAU)**, the activity of which consists in practical implementation of projects contributing to development of the Ukrainian segment of the global Internet;

- **Association "Telecommunications Chamber of Ukraine"**, an association of legal participants of the service industry Digital Communication, advocating the creation of a level playing field and favourable environment for fair business in the field of Internet communications.

Also, **the Federation of Trade Unions of Ukraine (FTU)** operates in Ukraine - the largest all-Ukrainian trade union association, which includes more than 85% of trade union members in the country. The purpose of the FTU is to express, represent and defend the labour, social and economic rights and interests of trade union members in government and local government, in relations with employers, their organisations and associations, as well as with other citizens' associations.

The Ukrainian Union of Industrialists and Entrepreneurs operates to defend the economic and social rights of industrialists and entrepreneurs, an all-Ukrainian voluntary non-profit organisation comprising business organisations of all kinds and types, from large vertically integrated corporations to small and medium-sized businesses.

Also in Ukraine there are active organisations representing the interests of consumers, in particular: **Public Organisation Ukrainian Organisation for Consumer Protection of Services, Public Organisation Consumer Protection Centre of Ukraine, Public Organisation Consumer Rights Protection and Consumer Market Monitoring Centre.**

5. What are the legislative and regulatory provisions to ensure fair trading and consumer protection in the sector?

Consumer protection in the field of electronic communications is carried out in accordance with, in particular, the Law of Ukraine “On Electronic Communications” (hereinafter - the Law).

According to the provisions of the Law the objectives of public administration and regulation in the fields of electronic communications and radio spectrum are, in particular, ensuring the provision throughout the territory of Ukraine of good quality, affordable, publicly available services by ensuring effective competition and choice of electronic communications services as well as satisfying the needs and protecting the rights of service end-users, including those with disabilities, for them to access the electronic communications services on an equal basis with other consumers.

Article 1 of the Law stipulates that the Law applies to the relations in the fields of electronic communications and radio spectrum, which involve provision and obtaining of electronic communications services, provision of and access to electronic communications networks, ensuring competition in electronic communications markets as well as the use of radio spectrum, numbering resources, and protection of service user rights.

According to the Law (Article 2):

- ‘service end-user’ means a service user that does not provide electronic communications services;

- ‘electronic communications service user (service user)’ means a natural or legal person or an individual entrepreneur that uses or orders an electronic communications service;

- ‘service consumer’ means any natural person that uses or orders an electronic communications service for own needs and does not provide any electronic communications services.

The conditions for providing and obtaining electronic communications services to end-users include: conclusion of a contract for the provision of electronic communications services according to the rules for providing and obtaining electronic communications services and other legal acts; payment for the electronic communications service ordered by an end-user, unless otherwise provided by the Law or in the contract for the provision of electronic communications services (Article 104 of the Law).

Before the conclusion of a contract for the provision of electronic communications services irrespective of the type and kind of electronic communications services, the end-user have the right to receive comprehensive information with description of the terms and conditions of such contract according to the rules for providing and obtaining electronic communications services, and an exhaustive list of such information is defined (Article 105 of the Law).

Also, Articles 105 and 110 of the Law define the requirements for the content, ways, and forms of providing information on the terms of the contract, terms of service provision, tariffs, tariff plans

to end-users. Conditions and procedures for contract conclusion, prolongation, termination at the initiative of the user and provider are defined by Article 112 of the Law.

According to Article 104 (6) of the Law service end-users have the right to protection of their rights in accordance with the legislation, including in court or by means of addressing, in case of any infringement thereof, the national regulatory authority for implementation of state supervision measures and remediation of identified infringements. In addition to that, consumers of electronic communications services have the right to out-of-court review of disputes by the regulatory authority at their request according to Article 123 of this Law.

Consumer has the right to file appeals (complaints) concerning provision of electronic communications services to the electronic communications services provider, national regulatory authority, other public authorities with relevant competence, as well as appeals (complaints) concerning renewal of his/her rights and protection of his/her legitimate interests for their review and proper response in accordance with the legislation (Article 122 of this Law).

According to Article 10 of the Law the national regulatory authority's decision on an unscheduled inspection only be issued when the regulatory authority receives a reasoned report with supporting documents or their copies (if any) from the end-user with regard to violations of rights or legitimate interests provided in the legislation on electronic communications and/or radio spectrum (apart from issues relating to the out-of-court resolution of disputes between electronic communications networks and/or services providers).

Consumer has the right to appeal to the regulatory authority to resolve a dispute with an electronic communications services provider concerning ordering, provision or termination of provision of electronic communications services (Article 123 of the Law).

Electronic communications services providers provide electronic communications services that meet the quality indicators and their parameters (if any) set by the national regulatory authority (Article 111 of the Law).

The national regulatory authority ensures the creation and free access of end-users to at least one independent comparison tool which enables them to compare and evaluate different Internet access services and number-based interpersonal electronic communications services (Article 110 of the Law). Currently the respective tool is being developed.

In the case of the service end-user switching between providers of Internet access services, the providers concerned are to provide the end-user with information (before and during the switching process) on the terms of switching and ensure continuity of the Internet access service at the end-user's request, unless technically not feasible. In the case of provision of number-based interpersonal electronic communications services, the electronic communications services provider provides the number porting service to its subscribers under the procedure established by the national regulatory authority (Article 113 of the Law).

According to Article 4 of the Law on NCEC the powers of the regulatory body include, but are not limited to: organisation of monitoring the quality of electronic communications services, monitoring compliance by providers of electronic communications services with the requirements for disclosure of information on the quality of services they provide; ensuring the creation and provision of end-users with free access to an independent electronic information resource to compare the conditions of provision and quality of Internet access services and number-based interpersonal

electronic communications services provided by different providers of electronic communications services.

Equal and unrestricted access to electronic communication services for persons with disabilities is defined in Article 116 of the Law, in particular, by providing information on the services which can be obtained using relevant devices and means; ensuring, in the course of development of their websites, related applications, including mobile ones, their reliability and perceptibility, accessibility and comprehensibility for persons with disabilities; informing about the availability of services for persons with disabilities, their compatibility with assistive technologies in accessible communication formats by the support service (in case of availability of help tools, call centres, customer support, means of speech recognition and synthesis, educational services).

Article 118 of the Law defines the access to emergency services and social services. In particular, electronic communications services providers provide end-users, including persons with disabilities, free of charge with the electronic communications service consisting of originating calls and connecting to operative dispatching services receiving emergency calls and information thereon under the numbers: 101, 102, 103, 104 and 112.

Protection of interests of end-users in the event the electronic communications services provider terminates provision of such services provided for in Article 124 of the Law. In particular, an electronic communications services provider that terminates provision of electronic communications services shall notify the end-users thereof at least three months prior to such termination of provision of electronic communications services.

Responsibility for violation of end-user rights in the field of electronic communications is established in part one and in part two of Article 125 of the Law. The national regulatory authority shall apply administrative and economic sanctions for each violation of the requirements of this Law and the legal and normative acts adopted pursuant to this Law (Article 126 of the Law). In addition to the above-mentioned provisions of the Law, which applies to relations in the field of electronic communications and radio frequency spectrum for the protection of service users' rights, the Rules for the provision and obtaining of electronic communications services are being developed.

At the same time, in accordance with Article 55 of the Constitution of Ukraine and Articles 15, 16 of the Civil Code of Ukraine, every person has the right to protect his/her civil rights and interests in court.

Consumer protection is also provided in accordance with the laws of Ukraine "On Protection of Economic Competition" and "On Protection against Unfair Competition".

6. What are the mechanisms for market surveillance?

According to the Law of Ukraine "On Electronic Communications" (Article 10), the state supervision (control) over compliance with the legislation on electronic communications and radio spectrum is exercised by the regulatory authority using the following methods:

- 1) unscheduled inspection;
- 2) analysis of regulatory reports submitted by electronic communications networks and services providers and radio spectrum users.

Also, in accordance with the above-mentioned Law, market supervision by the national regulatory authority is ensured by exercising the following powers:

1) approval of the rules (for example, rules for the provision and obtaining electronic communications services; rules for the provision and access to cable ducts, cap tariffs for the provision of cable ducts, etc.);

2) ensuring efficient management and use of radio spectrum and numbering resources as well as verification of compliance with the terms of radio spectrum licences and authorisations to use the numbering resource (Article 9);

3) identification of certain electronic communications markets, their analysis, identification of providers of electronic communications networks and/or services with significant market power, as well as imposition, amendment and cancellation of regulatory obligations (Section XII);

4) monitoring the quality of electronic communications services (Article 111);

5) radio frequency monitoring (Article 44);

6) resolving disputes arising between electronic communications networks and/or services providers (Articles 23, 24);

7) application of administrative and economic sanctions (Articles 126, 127);

8) review of appeals (complaints) of consumers of electronic communications services, taking measures, within its powers, to protect consumer rights, including, where necessary, state supervision measures, issuing instructions, ordinances on elimination of violations, imposing administrative and economic penalties under the law (Article 122); out-of-court resolution of disputes on consumer appeals (Article 123);

9) conducting geographical surveys of the availability (deployment) of networks and research on the availability of universal electronic communication services - at the stage of implementation;

10) data collection for the preparation of statistical and other reports, in particular on the Digital Economy and Society Index (DESI) - at the stage of implementation.

Number of scheduled* and unscheduled inspections of electronic communications (TC) market undertakings and radio frequency resource (RFR) users of Ukraine conducted by the national regulatory authority

	2017		2018		2019		2020		2021	
	schedul ed	unsche duled	schedul ed	unsche duled	schedul ed	unsche duled	schedul ed	unsche duled	schedul ed	unsche duled
TC	0	18	0	38	34	84	2	15	2	33
RFR	0	12	0	24	28	68	2	38	2	56

** scheduled inspections were conducted in accordance with prior legislation (repealed since 01.01.2022).*

Though some additional control instruments are with the Tax Office and other state agencies. MDTU's role in the enforcement process is limited by the Law on Electronic Communication to the definitions of rules for electronic communications services and quality parameters of networks (from 01.07.2022). Other ministerial functions are the monitoring in the field of informatisation (ICT); the monitoring of data on the quality of electronic and administrative services, broadband Internet access and open data, and the monitoring of data on the commission and/or attempts to commit unauthorised actions against state information resources in information and electronic communications systems, as well as their consequences, and the passing of relevant information to law enforcement agencies for preventing and/or stopping crimes in the area.

7. What are the procedures for dispute resolution regarding consumer-operator disputes, operator-operator disputes and operator-regulator disputes?

Disputes “consumer – operator”

According to Article 123 of the Law of Ukraine “On Electronic Communications” (hereinafter - the Law), consumer has the right to appeal to the national regulatory authority to resolve a dispute with an electronic communications services provider concerning provision of electronic communications services.

Prior to filing an appeal to the national regulatory body on out-of-court resolution of disputes, a consumer shall address an appeal (complaint) to the electronic communications services provider. In the event of receipt of such an appeal that has not been earlier addressed to the electronic communications services provider, the regulatory authority shall forward such an appeal to the provider and notify the consumer thereof.

If the electronic communications services provider dismisses the claims laid down in the appeal (complaint) of the consumer or provides no response within 30 calendar days from the day of receipt of the appeal, the consumer shall send the appeal to the national regulatory authority together with copies of the earlier appeals to the provider for the out-of-court resolution of the dispute.

A dispute shall be resolved by the authorised official of the national regulatory authority within a period not exceeding two months (it may be prolonged for a period necessary for taking state supervision or expert examination measures).

Parties shall be notified in writing about the results of the dispute resolution with justification. Information about the results of the dispute resolution shall be published on the electronic regulatory platform (excluding personal data and restricted information) in compliance with the requirements set by the national regulatory authority.

Costs relating to conducting expert examination, engaging specialists and experts shall be borne by the provider if it was established that the provider violated the legislation and consumer rights, and in other cases – by the party that initiated such expert examination or engagement, in case the payment is required.

Currently, the procedure for submitting appeals by consumers and resolving disputes provided by the Law is also being developed.

In addition, the dispute resolution between consumers and providers is carried out by considering appeals (complaints) of consumers of electronic communications services to the national regulatory authority, including consideration, analysis and consolidation of consumer appeals and proposals taking into account the Law of Ukraine “On Citizens’ Appeals”, response preparation based on information from the service provider.

Applying to the national regulatory authority for out-of-court dispute resolution shall be without prejudice to the right of either of the parties to apply to court.

Results of appeals consideration by the national regulatory authority in 2017-2021

	2017	2018	2019	2020	2021
Resolved positively	2298	3061	2141	2523	2811
Satisfaction denied	0	0	13	6	4
Clarification provided	7115	9424	9414	7416	6671
Appeal returned to the author in accordance with Articles 5 and 7 of the Law of Ukraine “On Citizens' Appeals”	0	0	2	4	3
Appeal forwarded in accordance with Article 7 of the Law of Ukraine “On Citizens' Appeals”	97	82	106	337	623
Appeal not subject to consideration in accordance with Articles 8 and 17 of the Law of Ukraine “On Citizens' Appeals”	208	318	410	851	873
Under consideration at the end of the reporting period	934	570	471	738	501
Total	10652	13455	12557	11875	11486

The dynamics of appeals received during 2018-2021 indicates their decrease in numbers.

Disputes “operator-operator”

According to Article 23 of the Law of Ukraine “On Electronic Communications” the national regulatory authority shall resolve disputes arising between electronic communications networks

and/or services providers in connection with the exercise of their rights and/or performance of their obligations in particular regarding:

- network interconnection;
- access to electronic communications networks and infrastructure;
- national roaming and number porting;
- implementation of measures related to co-investment and deployment of electronic communications networks;
- issues provided in an agreement regulating the relationship laid down by this Law.

The national regulatory authority shall, at the request of either party, review a dispute in accordance with Article 24 of this Law and issue a binding decision within two months following the receipt of the request (it may be extended for the time required for taking evidence or other necessary procedural actions).

The national regulatory authority shall resolve disputes according to the principles and objectives set by this Law as well as principles of adversarial nature and procedural equality, publicity and transparency of dispute resolution.

The national regulatory authority's decisions based on the results of the dispute review shall be justified and published on the electronic regulatory platform apart from their provisions (parts) containing restricted information.

Applying to the national regulatory authority for out-of-court dispute resolution shall be without prejudice to the right of either of the parties to apply to court.

In the event of a dispute arising between electronic communications networks and/or services providers from Ukraine and from other countries, the national regulatory authority shall take measures to facilitate their resolution in accordance with the international treaties of Ukraine and in cooperation with competent authorities of relevant countries and international organisations.

Decisions of the national regulatory authority made during dispute review shall take effect immediately.

The procedure for out-of-court dispute resolution between electronic communications networks and/or services providers according to the Law, determined by the national regulatory authority (is being developed), will set the requirements with regard to the following:

- form, contents and procedure for submission of claims for dispute resolution;
- negotiation on dispute resolution between the parties;
- providing and collecting evidence, conducting an expert examination (if applicable);
- preparation for the dispute review, including establishing working groups for preliminary review of the dispute and submitting proposals for its resolution;
- procedure for notification of the parties of sessions and other dispute review measures;
- dispute review procedures, including those in an electronic form.

During 2020-2021 the national regulatory authority did not receive any appeals from operators to resolve disputes.

Disputes “operator – regulator”

Disputes between the operator and the regulator are resolved in court.

In particular, the legislation in the field of electronic communications and radio frequency spectrum provides:

the ability of providers of electronic communications networks and/or services to appeal the national regulatory authority's decisions in court;

the national regulatory authority's powers to apply to the court in cases established by law, if the undertakings, operating in the electronic communications markets and providing postal services, violate the legislation on electronic communications, radio frequency spectrum and postal services and to file a claim to the court for enforced collection of amounts of the administrative and economic penalties imposed;

the right of providers of electronic communications networks and/or services, users of the radio frequency spectrum subject to the state supervision (control) measures to appeal the results of the state supervision (control) measures and decisions made in accordance with them, including the national regulatory authority's decisions on imposition of administrative and economic sanctions, in court.

During 2021 the representation of the NCCIR's interests continued in the courts of Ukraine:

- in the first instance in 18 cases, of which: administrative - 17; economic - 1;
- in the appellate instance in 10 cases, of which: administrative - 9; economic - 1;
- in the cassation instance in 7 cases.

It should be noted that the vast majority of these cases were moved from previous years due to the lengthy procedural nature of their consideration, appeal, and final court decision.

8. Of which relevant international organisations does Ukraine hold membership?

International Telecommunication Union (ITU).

European Conference of Postal and Telecommunications Administrations (CEPT).

European Telecommunications Satellite Organization (EUTELSAT).

Organisation for Democracy and Economic Development-GUAM.

9. Explain how the regulatory and institutional set-up secures sufficient transparency and legal predictability for market players and potential investors.

The Law on NCEC (Article 15) provides for openness of the activities of the national regulatory authority (NRA), which is ensured by:

1) taking decisions at meetings held in the form of open hearings and allowing representatives from natural and legal persons, their associations and other interested persons free access to such meetings;

2) informing the public of the plans and results of their work;

3) creation of conditions for public participation in the development of draft laws and regulations;

4) compliance with the procedure of promulgation of draft normative legal acts and consultations;

5) holding of public discussions and public hearings;

6) involvement of representatives of the public in the preparation of annual and financial reports and public discussion of these reports before submission to the Cabinet of Ministers of Ukraine;

7) provision of access to information and provision of information upon request in accordance with the Law of Ukraine "On Access to Public Information";

8) making public on its official website in the form of open data, including:

a) the agenda of the NRA meeting;

b) the draft decisions of the NRA together with annexes and justifications

c) the decisions taken by the NRA together with the annexes thereto;

d) the results of monitoring;

e) the results of analyses of the electronic communications markets;

f) inspection reports of the undertakings and comments, explanations and justifications provided by the undertakings

g) the draft and approved financial estimates of the NRA (or amendments thereto);

h) the annual report on the work of the NRA;

i) a report on the execution of financial estimates by the NRA;

9) making publicly available on the Single State Open Data Web Portal public information obtained for monitoring the level of tariffs (prices) for universal services and their accessibility to consumers;

10) providing the possibility to view online broadcasts of NRA meetings held in the form of open hearings on the NRA official website and to access the archive of recordings;

11) compulsory written invitation of an authorised representative of a business entity to examine issues of acts of individual action regarding its activities;

12) application of other measures stipulated by the laws of Ukraine "On electronic communications", "On postal communication", "On access to public information".

We would like to mention the following aspects in more detail.

Article 22 of the Law of Ukraine "On Electronic Communications" provides for consultations with market participants and other interested parties.

Thus, the NRA holds consultations with providers of electronic communications networks and/or services, users of the radio frequency spectrum, consumer associations, other interested parties when carrying out activities that have a significant impact on the relevant market, including with regard to competitive bases for allocation of the radio frequency spectrum, market analysis and decision-making on its results, taking measures to ensure the availability of universal services, in other cases provided for by legislation, as well as upon request of associations, public bodies and society.

The publication of the results of the consultations is ensured by the NRA, including through the electronic regulatory platform. The draft decision or other document to be consulted, the date of the publication, the deadline for comments and suggestions and the indicative deadline for deciding on the results of the consultation shall be made public on the electronic regulatory platform.

The NRA gives interested parties the opportunity to comment on the draft decision(s) within a period of at least 30 calendar days. Within five working days from the end of the consultation period, the NRA shall publish a summary of the results of the discussions, including the comments and suggestions received and the NRA position on those comments.

Article 59 of the Law of Ukraine "On Electronic Communications" defines the issue of granting licences for the use of radio frequency spectrum using auction or tender procedures. In particular, the Article provides that an announcement of a tender or auction shall be submitted no later than 60 calendar days before the day of the tender or auction and shall be posted on the NRA website. The announcement must ensure that those interested in obtaining a licence are properly informed.

The NRA shall carry out its functions, inter alia, by providing official summarised explanations and individual advice in the fields of electronic communications, radio spectrum and postal services. The generalised explanations are published on the official website of the NRA (Article 4 of the Law on the NCEC).

The relevant Article also provides for the publication of information on the legal requirements for activities in the fields of electronic communications, radio frequency spectrum and provision of postal services, other information necessary for the development and functioning of open and competitive markets for electronic communications and postal services.

The NRA shall annually, by 1 April of the year following the reporting year, submit a report on its activities to the Cabinet of Ministers of Ukraine and make it publicly available on its official website.

Article 14 of the Law on the NRA defines the procedure for organising the work of the NRA and the adoption and registration of decisions. In particular, it provides:

1. The meeting of the NRA is the main form of its work as a collegial body. The order of organisation of the work of the NRA, in particular the conduct of its meetings, is determined by the rules of procedure of the NRA, which shall be approved by it, and made public on its official website.
2. The meetings of the NRA shall take the form of open hearings.
3. A meeting of an NRA shall be competent if a majority of the total membership of the NRA is present. Representatives of the business entities operating in the fields of electronic communications, radio frequency spectrum and postal services, governmental and local authorities,

organisations representing the interests of consumers, persons with disabilities, NRA, the media and other interested parties are entitled to attend the open hearing.

The list of issues to be submitted to the NRA shall be made public no later than two working days before the day of the meeting on the official website of the NRA.

Together with the list of issues to be submitted to the NRA for consideration, draft decisions of the NRA (except for draft decisions or parts thereof containing restricted access information), their corresponding annexes and justifications, comments and suggestions received, as well as expert opinions of the staff on the comments and suggestions received shall be published on the official website.

The results of the meeting of the NRA shall be drawn up in minutes. The minutes shall be made publicly available on the official website of the NRA. If a separate opinion of a member of the regulatory body was submitted to the decision of the NRA, it shall be made publicly available as an integral part of the minutes.

The NRA shall ensure online broadcasting of the meetings held in the form of open hearings on its official website. The recordings of such broadcasts shall be retained and made freely accessible on the official website for at least one year from the date of the meeting.

The NRA and officials of the staff within the competence shall issue acts of an organisational and administrative nature or individual action, which are not normative legal acts - decisions, instructions, orders. Ordinances shall be published on the official website of the NRA. The NRA shall maintain a register of all decisions taken and make them freely accessible on its official website.

NRA decisions (other than restricted information) shall be made public within five working days of their adoption on the NRA official website. The scope of restricted information not subject to disclosure shall be determined by the NRA on the basis of a petition by interested parties taking into account the requirements of the laws of Ukraine "On Access to Public Information", "On Information", "On Appeals of Citizens" and "On Protection of Personal Data".

The NRA approves the estimates upon the entry into force of the Law of Ukraine on the State Budget of Ukraine for the respective year and posts them on its official website. The report on the implementation of the estimates of the NRA, after its review and approval, shall be sent to the Cabinet of Ministers of Ukraine and shall be made public on the official website of the NRA no later than 1 April of the year following the reporting year (Article 18 of the Law on the NRA).

The NRA has a Public Council as an advisory and consultative body established to involve citizens in the implementation of state policy on the regulation of the activities of economic entities in the fields of electronic communications, radio frequency spectrum and postal service provision. Provisions on the public council, amendments to it are agreed by the NRA and approved by the public council of the NRA (Article 20 of the Law on NCEC).

The MDTU also has a Public Council. The establishment and operation of the Public Council is determined by the Resolution of the Cabinet of Ministers of November 3, 2010 № 996 "On ensuring public participation in the formation and implementation of public policy."

Regulations on the Public Council at the Ministry and its composition were approved by the order of the Ministry of June 7, 2021 №8H.

Public consultations

The MDTU also uses the mechanism of public consultations that secure the transparency of by-laws adoption process.

Public consultation is a part of the policy development process as defined in the §42 of the CMU Resolution No. 950 dd.18.07.2007 and is carried out in accordance with the procedure for holding public consultations on the formation and implementation of state policy. Draft regulatory acts are submitted for public discussion taking into account the requirements of the Law of Ukraine "On Principles of State Regulatory Policy in the Sphere of Economic Activity". The depth and form of the consultation process are usually defined by the Ministry. There is no limitation at which stage of state policy development experts and public entities are to be involved for consultations. In most cases, state bodies prefer a more 'passive' way of consultation, which results in publishing the draft policy on their websites for the required number of days and collecting feedback via on-line forms.

Each year, the executive authorities draw up an indicative plan for public consultations taking into account the main tasks set by the CMU, the draft law plan and other policy documents. The indicative plan for 2022 is publicly available and includes 18 policies for consultations, via electronic public consultations only (other forms of consultations are not foreseen).

In MDTU, there are some good examples to conduct public discussions in a more substantial way. One recent example from mid-January 2022 is the announcement for the preparation of the innovation strategy and the relevant call for action to experts to provide input, recommendations and take active participation in drafting this strategic paper.

Another example is drafting of by-law "Rules for providing and receiving electronic communications services".

For a proper drafting of this by-law and to better understand the position of the market, MDTU made preliminary discussions (non-obligatory) with all interested stakeholders and government bodies. Consultations were conducted on a weekly basis and lasted two months. The final draft of the by-law took into consideration all recommendations of market players and was submitted to the SSSCIPU for publication and public consultation according to the official procedure.¹⁷ The draft by-law should be published for public consultation for a minimum of one month, since it was a regulatory act under the Law of Ukraine "On Principles of State Regulatory Policy in the Sphere of Economic Activity".

Portal BROADBAND.GOV.UA

As it was mentioned, under the Law of Ukraine "On Electronic Communications", providers of electronic communications services must disclose the information on (among other things) the scope and conditions of the services offered (territory of services, terms of payment) and the main

¹⁷ By the time of this consultation, functions of electronic communications were with SSSCIP. The MDTU had a 'participative' role in preparing and handling pre-official consultations. The SSSCIP then handled the official procedure for publishing the draft policy on its web site.

characteristics of each service provided, including indicators of service quality parameters in complete, machine-readable manner and in an accessible format, including for consumers with disabilities. Such information shall be regularly updated and made available through the electronic regulatory platform (i.e., portal BROADBAND.GOV.UA) in a form that shall be established by the NRA. This information will be used by the NRA to create an independent tool for the end customers to compare the conditions for the provision of electronic communications services of different services providers.

Such a tool that is being developed is a portal BROADBAND.GOV.UA (hereinafter referred to as the portal). It should become an access point to all information related to the broadband system and a public multifunctional platform that ensure access and participation of all stakeholders in the process of implementing public policy in the field of digital infrastructure, including mobile and fixed broadband infrastructure. In the European Union, such a tool is the Broadband mapping service.

The portal's public data must have the status of "open data" in accordance with the Resolution of the Cabinet of Ministers of Ukraine No. 835. The API application software interface must ensure automatic data download to the Unified Open Data Portal data.gov.ua. This approach will make it possible to develop other useful services about Internet coverage / penetration in Ukraine.

Thanks to the launch of the portal, the Government should ensure effective implementation of digital infrastructure policy, effective public investment to provide broadband for all social infrastructure institutions, transparent purchases in the electronic communication sphere within the framework of projects of the National Informatization program. Broadband connectivity will also be provided in all localities of the country, and a single window will be created to collect information about the quality of electronic communication services.

10. Taking into account the Directive (EU) 2018/1972 establishing the European Electronic Communications Code, what are the provisions to ensure the independence of the National Regulatory Authority?

The Law on NCEC, developed together with the Law of Ukraine "On Electronic Communications" to implement Directive (EU) 2018/1972, provides guarantees for the independence of the national regulatory authority. In particular:

NCEC is a central executive body with a special status, which acts independently exercising its powers prescribed by the law.

Illegal interference of the state authorities, authorities of the Autonomous Republic of Crimea, local authorities, their officials, political parties, associations of citizens, enterprises, establishments, organisations, and institutions in the activities of the national regulatory authority is prohibited.

The activities of the national regulatory authority are legally separate from any activities related to the ownership or control of the state over the undertakings that provide electronic communications services or postal services.

The national regulatory authority performs its functions, including through normative and legal regulation, develops and approves normative and legal acts. The national regulatory authority issues normative and legal acts in the form of resolutions subject to the state registration by the Ministry of Justice of Ukraine. However, the grounds to decline their state registration can only be their

inconsistency with the Constitution and laws of Ukraine, normative and legal acts of a higher legal force or international treaties approved by the Verkhovna Rada of Ukraine.

It is worth noting that, according to the legislation of Ukraine, the state registration of a normative legal act consists in conducting a legal examination by the Ministry of Justice of Ukraine for its compliance with the Constitution and the legislation of Ukraine, the Convention for the Protection of Human Rights and Fundamental Freedoms of 1950 and its protocols, binding international treaties of Ukraine, obligations of Ukraine in the field of European integration and EU law (EU *acquis*), anti-corruption and gender legal expertise, taking into account the practice of the European Court of Human Rights.

At the same time, state registration does not apply to acts of NCEC of organisational and administrative nature or individual acts that are not legal acts of regulatory nature.

The national regulatory authority is a legal entity under public law, has separate property that belongs to the state property, accounts in the bodies that provide treasury services for budget funds.

The national regulatory authority is financed from the state budget, and at the same time independently allocates budget funds provided to it for the respective year.

There is a special procedure defined in the Law on NCEC regarding appointment and dismissal of members of the NCEC. Requirements for a candidate member of the NCEC, grounds for refusal to appoint a candidate, grounds for termination of powers of the appointed member of NCEC before the term of his/her office is over are exclusively provided by the Law on NCEC.

Additionally, it is worth noting that the resignation of the Cabinet of Ministers of Ukraine before the newly elected Verkhovna Rada of Ukraine or the formation of a new composition of the Cabinet of Ministers of Ukraine cannot be grounds for early termination of powers of a member of the national regulatory authority. The powers of all members of NCEC may be terminated by decision of the Cabinet of Ministers of Ukraine if the meeting of the national regulatory authority cannot be held due to the lack of a quorum for more than 60 calendar days in a row. The motion of termination on such grounds shall be made by the Chairman or a member of NCEC.

Members and other officials of the national regulatory authority do not have the right to directly or indirectly own the corporate rights of any undertakings operating in the field of electronic communications, radio frequency spectrum and provision of postal services in accordance with the Law of Ukraine “On Corruption Prevention”.

C. Policy and regulatory frameworks

11. Please describe the policy for the electronic communications sector. If a strategy document covering the sector exists, provide a translated copy.

Policy regarding the development of the electronic communications networks/services markets in Ukraine

Two historic events have had also a significant impact on formation of public policy in the field of telecommunications (electronic communications) and thus the development of the electronic

communications networks/services markets in Ukraine: accession to the World Trade Organization in 2008 (**a commitment to very significant liberalisation of economic relations, particularly in the context of access to the telecommunications market in Ukraine**), and the signing of the Association Agreement between Ukraine and the EU.

Key tasks in the framework of approximation of Ukraine's legislation to the EU legislation in the sphere of telecommunications (electronic communications) - implementation of EU law into Ukrainian legislation to the extent necessary to extend the EU internal market regime to this sphere. The integration of Ukraine into the EU Single Digital Market has become one of the highest priorities for Ukraine, from which Ukraine's telecommunications policy is largely derived.

In 2017, the Digital Strategy "Digital Agenda 2020" was developed, which set out the basic principles for Ukraine's establishment in the digital space and provided the basis for the development of legal regulation in the digital sphere. In particular, the Government of Ukraine identified priorities for innovative public policy for 2017-2021.

At the same time, the only high-level policy document defining digital development objectives in Ukraine was **The Concept of Development of the Economy and Society of Ukraine for 2018-2020 and the Action Plan for the implementation of the Concept**. The Action Plan included cooperation measures to harmonise digital initiatives under the Digital Agenda for Europe and the EU DSM initiatives. The main purpose of the document was to implement the initiatives of the "Digital Agenda of Ukraine 2020" (digital strategy) removing barriers to digital transformation of Ukraine in the most promising areas.

To date, the main future oriented strategic policy documents in this area (apart from the legislative framework) are:

1. **The National Economic Strategy to 2030**, approved by Resolution No. 179 of the Cabinet of Ministers of Ukraine, dated 03 March 2021. The Strategy is the basis for the development of more detailed measures for the implementation of the ways to achieve the strategic goals and distribution of respective tasks implementing the state economic policy, such as programme and strategic documents of the Cabinet of Ministers of Ukraine, action plans of ministries and other central authorities.

One of the strategic goals of the Strategy is "Ensuring development of competitive telecommunication market providing high quality ICT services", achievement of which envisages:

- improvement of telecommunication infrastructure (simplification of procedure for lease of state and municipal property, simplification of access to state and municipal infrastructure; development of recommendations and criteria for procurement procedures for works and services for construction of new infrastructure (in particular, considering the parameters of Internet speed and network effect); introduction of new technologies in telecommunications, support for construction of telecommunication infrastructure in commercially unprofitable regions;
- optimisation of tariffs and rents for the radio frequency resource (creation of an information and analytical system for digital interaction between the regulator and telecommunication service providers; increase in allowable emission rates for base stations; simplification of procedures for obtaining licences to use the radio frequency resource; creation of a unified procedure for collecting information and regular publication of data sets on the radio frequency resource based on the national regulator (NCEC), abolition of spectrum factors that distort competition;

- improvement of legislation and regulation of the sector (approval of the updated list of quality indicators and their limiting standard levels for mobile networks of UMTS, LTE, 5G standards and their subsequent releases; introduction of mandatory requirements for the provision of Internet access service (availability of) certified billing system, 24/7 telephone service support, recalculation of subscriber fees in case of delayed service resumption).

2. The Strategy for Integration into the EU Single Digital Market and the Plan of Measures for its implementation, developed as stipulated in Annex XVII to the EU-Ukraine Association Agreement. The Strategy gives priority to the area of electronic communications, which is the backbone of the digital economy.

The aim of the Strategy is to introduce an internal market regime in the relevant sector based on the principle of reciprocity, as well as to meet Ukraine's international obligations in the field of telecommunications (electronic communications) through consistent adaptation of Ukrainian legislation to EU standards, and the main areas of implementation are defined as:

- bringing Ukraine's terminology in line with EU acquis;
- improvement of the system of public administration and regulation in the sphere of telecommunications (electronic communications);
- improving the legal and regulatory framework in the field of telecommunications (electronic communications) by bringing it closer to the EU legislation, which will stimulate entrepreneurial activity in this area and will contribute to the development of telecommunication infrastructure, introduction of new technologies and services;
- ensuring efficient use of numbering and radio frequency resources by telecommunications market participants;
- bringing national legislation on standardisation in the area of telecommunications (electronic communications) in compliance with EU legislation
- ensuring equal and unrestricted access of consumers to telecommunication (electronic communications) services, primarily universal ones, of appropriate quality level and at state-regulated tariffs;
- ensuring compliance with European and international standards for the operation of electronic trust services;
- ensuring protection of the rights and interests of the consumers of telecommunication (electronic communication) services;
- Increase the level of security of network and information systems in Ukraine
- Development of digital skills and competencies among the population of Ukraine.

3. The Program of Activities of the Cabinet of Ministers of Ukraine, approved by Resolution No. 471 of the Cabinet of Ministers of Ukraine dated June 12, 2020. Among the national strategic objectives of this Programme, the particular ones for electronic communications are also defined:

- development of Internet access networks, creation of conditions for mobile technologies of the fourth and fifth generations;

- provision of access to high-speed Internet access for social infrastructure institutions, local authorities and citizens;
- creating opportunities for the development of fibre optic networks by improving the legislation on the conditions of providers and access to the infrastructure;
- bringing to European standards requirements for operator's equipment, certification of subscriber equipment and quality indicators;
- monitoring the Internet coverage of the territory of Ukraine and the quality of broadband access to the Internet;
- optimising the use of radio frequency resource;
- improvement of state backbone optical networks management;
- simplifying working conditions for small and medium-sized operators and telecommunication providers;
- increasing access and empowering people to use the Internet safely and effectively, both for personal development and for running their own businesses, by improving digital skills.

Other relevant strategic directions are reflected in following operational-level documents aimed at addressing defined objectives in more detail:

- Decree of the President of Ukraine No 242/2019 of 17.05.2020 "On ensuring conditions for the implementation of mobile communication system of the fifth generation";
- Decree of the President of Ukraine from 8.07.2019 No 497/2019 "On some measures to improve access to mobile Internet";
- Order of the Cabinet of Ministers of Ukraine No. 1272-r of 4.12.2019 "On Approval of the Action Plan on Creation of Conditions for Development of Mobile Broadband Access";
- Order of the Cabinet of Ministers of Ukraine No. 1189-r of September 30, 2020 "On approval of the action plan to improve the quality of mobile communications services for 2020-2022";
- Order of the Cabinet of Ministers of Ukraine of 04.12.2019 No. 1413-r "On Approval of the Action Plan on Deregulation of Economic Activities and Improvement of Business Climate".

It is worth noting that in 2019 Ukraine was included for the first time in the European Commission's Digital Government Factsheets 2019, becoming the fourth non-EU or European Free Trade Association country to cover the review. This marks a huge progress in digital services achieved as part of the implementation of the EU-Ukraine Association Agreement in the electronic communications sector in particular, and towards integration into the EU DSM in general.

Policy regarding the broadband development in Ukraine

The main beneficiary in the field of broadband development in Ukraine is a person who seeks to protect their right to broadband Internet. Therefore, the public policy on broadband is aimed at creating opportunities for connecting to the Internet for the maximum number of citizens, public

institutions, enterprises, organisations, and their full use of opportunities that arise for users of the global network.

Therefore, one of the main tasks of the Government is to ensure an increase in coverage and penetration.

Currently the goals of the broadband development and penetration are the following:

Digital Economy dimension	MDTU CMU Program 2023	Goals 2023	UA Economic Strategy 2030	Goals 2030
Connectivity	Informatization of society (development of internet connectivity)	<ul style="list-style-type: none"> - 95% percent of the population has mobile broadband access with a speed of at least 2 Mbps; - 75% of households use fixed broadband Internet access at a speed of at least 30 Mbps; - 95% of rural households have the technical ability to connect to fixed broadband Internet access at a speed of at least 100 Mbps; - 95% of social infrastructure institutions and local governments are connected to broadband Internet access at a speed of at least 100 Mbps. 	Ensuring the development of a competitive telecom market that provides high quality ICT services.	<ul style="list-style-type: none"> - 95% percent of the population has mobile broadband access with a speed of at least 50 Mbps; - 75% of households use fixed broadband Internet access at a speed of at least 100 Mbps; - 99% of the population of Ukraine is provided with the technical ability to connect to fixed broadband access at a speed of 1 Gbps; - 99% of social infrastructure institutions and local governments are connected to fixed broadband access at a speed of at least 1 Gbps.

To achieve these goals the MDTU has started the **"Internet-Subvention" project** in 2021 (subvention from the state budget to local budgets for the implementation of measures aimed at increasing the availability of broadband Internet access in rural areas) project to provide access to fixed high-speed Internet (100 Mbps) in approximately 3.000 small settlements to 6.000 social infrastructure institutions.

The results of the subvention are tracked on a public dashboard. In 2021, about 3,000 villages and more than 6,000 social infrastructure facilities were successfully covered by the optical Internet, where more than a million Ukrainians lived. 357 000 households have been covered by fiber optic networks. Thus, as of the beginning of 2022, 95% of Ukrainian households were covered by fiber-optic networks, which means they had the technical ability to connect to fixed broadband Internet access.

As for mobile broadband access – the **LTE900 project** was launched in 2020. Thanks to it, 9.3 million Ukrainians (10.7 thousand settlements) received an improved 4G connection or a new operator. At the same time, more than 2.7 million Ukrainians received 4G connection for the first time (about 8.3 thousand settlements). According to the terms of licensing, by July 2022, in settlements with a population of more than 2,000 people, high-speed mobile Internet coverage must be provided, covering at least 90% of the population of Ukraine by each licensee. Also, 4G coverage of national (until January 2023) and international (until July 2024) roads should be provided. As of February 1, 2022, 23,208 settlements in Ukraine have access to high-quality mobile Internet, which is about 36.7 million people.

There is no separate broadband strategy in Ukraine currently. However, on 01 January 2022, the Law of Ukraine "On Electronic Communication" entered into force, according to which the Cabinet of Ministers of Ukraine must approve the strategy for the development of electronic communications and the national plan for the development of electronic broadband communication networks.

The MDTU, with the assistance of the EU Support for Broadband Ukraine Project (Stantec), is developing the National Broadband Strategy of Ukraine (hereinafter referred as "NBS") is the strategic policy document containing the analysis of the status of fixed and mobile broadband in Ukraine, the challenges and the objectives for national broadband deployment, regulatory, financial, and technical directions, and the implementation and monitoring of broadband roll out. Fiber-optic and 5G are the key words in the NBS.

In 2021, the MDTU developed **the Action Plan for the Development of Broadband Internet Access for 2021-2022**, approved by Decree of the Cabinet of Ministers of Ukraine dated 08 September 2021 No. 1069-p in order to develop broadband Internet access in Ukraine and ensure the implementation of the Law of Ukraine "On Electronic Communications".

The plan's main objectives are to provide access to the Internet for residents of settlements where it is absent. The regions will be able to connect settlements (primarily villages) and social institutions to high-speed Internet, receive priority public services in electronic form, introduce open data by regional authorities, and increase the level of digital literacy of the regional population.

To implement the action plan, amendments to the regulatory and legal acts that simplify access to the infrastructure were developed.

12. What is the situation and policy as regards universal service obligations?

In accordance with Section XIII of the Law of Ukraine “On Electronic Communications” (hereinafter - the Law) universal electronic communications services include:

- 1) broadband Internet access services at a fixed location;
- 2) voice electronic communications service at a fixed location.

A universal electronic communications service shall be provided at a fixed location (at the address of a building, structure indicated by the consumer), regardless of the technology (wired or wireless) of consumer access to electronic communications networks.

Universal electronic communications broadband Internet access services at a fixed location shall allow speed that meets the indicators and parameters at a level sufficient for supporting consumer access to the following services:

- 1) electronic mail;
- 2) search engines enabling search of all types of information;
- 3) basic training and education electronic tools;
- 4) mass media on the Internet;
- 5) electronic commerce;
- 6) Internet banking;
- 7) access to electronic governance services (electronic administrative services);
- 8) social media and Internet messaging services;
- 9) voice and video communication.

All consumers throughout Ukraine shall have the right to obtain universal electronic communications services of the established quality and at an affordable price.

With the purpose to assess affordability of universal services to consumers throughout Ukraine, the NCEC in cooperation with the central executive authority in the fields of electronic communications and radio spectrum and central public authorities in the field of economic development, trade and statistics shall annually monitor the level of tariffs (prices) for universal services. Affordability of universal services shall be assessed based on the established criteria, taking into account the levels of prices for universal electronic communications services in the territory of the state and the level of consumer incomes.

When providing universal electronic communications services, the provider of such services shall: offer and provide universal service (services) to consumers on non-discriminatory terms and conditions, with established quality indicators, at economically feasible, transparent and non-discriminatory prices; provide such services under a public access agreement that meets the requirements; suspend provision of universal services to consumers who belong to vulnerable social groups according to the procedure established by the rules of provision and obtaining of electronic communications services.

Facilitation of access of consumers with disabilities to universal electronic communications services and measures ensuring that they have respective terminal equipment and special means for

improving equivalent access, including, where necessary, speech recognition and synthesis, shall be funded at public expense.

If, based on the results of monitoring, it is established that prices for universal electronic communications services are not affordable for vulnerable social groups of consumers, such consumers shall have the right to receive special-purpose targeted social assistance for obtaining such services. Such procedure and amounts shall be reviewed at least once every three years.

If it is established based on the results of geographical surveys of electronic communications networks roll-out that a certain territory (territories) is (are) not covered by a universal service, provided such service cannot be ensured in this territory (these territories) on a commercial basis, NCEC shall take a decision on defining this territory (these territories) as such on which access to universal electronic communications services must be ensured. If such a decision is taken, the following shall be published on the electronic regulatory platform:

1) decision on defining a territory (territories) as such in which access to universal electronic communications services must be ensured;

2) a call to electronic communications services providers to tender in competitive tendering for electronic communications networks roll-out for ensuring that universal electronic communications services are available;

3) information on the terms and conditions of the competitive tendering and compensation of part of the costs in connection therewith of the electronic communications networks roll-out.

Electronic communications services providers selected in the competitive tendering with the purpose to roll out electronic communications networks for ensuring availability of universal electronic communications services in a designated territory shall have the right to:

1) free access in a respective territory to infrastructure facilities in state and communal forms of ownership suitable for rolling out (creation) of electronic communications networks;

2) access with the purpose to roll out networks for ensuring universal electronic communications services at established tariffs to infrastructure elements of construction, transport, electric power, electronic communications cable duct system facilities, distribution network of buildings.

In the event that no undertaking took part in the competitive tendering or no electronic communications services provider has been selected in this procedure, NCEC shall, according to the established procedure, appoint one or several electronic communications services providers on which an obligation is imposed to provide access to universal services in the designated territory, from among those that have higher capacity for provision of such services.

In the event that the state has outstanding compensations of costs of electronic communications networks roll-out and/or maintenance due to a universal electronic communications services provider, such provider shall have the right to refuse from rolling out the network for ensuring availability of universal electronic communications services.

Decisions on compensation of part of costs of electronic communications networks roll-out and/or decisions on imposing an obligation to provide access to universal service in the designated territory shall be taken by NCEC if the respective funding is available.

Provider of electronic communications services of which the electronic communications network was rolled out with compensation of part of costs at public expense, shall provide universal services using such network in the respective designated territory.

In the event that such provider intends to provide access to a part or to all assets of its local network to a certain legal entity, it shall notify the national regulatory authority thereof within the set terms so that the national regulatory authority can assess the impact of the planned agreement on provision of universal services in the designated territory. In such cases the national regulatory authority may take a decision on imposing, changing or cancelling the obligations, including imposing an obligation to ensure access to universal services on the electronic communications services provider to which such a network was alienated.

The Cabinet of Ministers of Ukraine may take a decision on applying mechanisms of public-private partnership under of the Law of Ukraine “On Public-Private Partnership” and concessions under of the Law of Ukraine “On Concessions” with the purpose to roll out electronic communications networks for ensuring availability of universal services in a certain designated territory (territories).

The Cabinet of Ministers of Ukraine, on the proposal of central executive authority in the fields of electronic communications and radio spectrum, agreed on with NCEC, shall establish the procedure for compensation of losses to electronic communications services providers as provided for by the legislation and arising out of the obligation to roll out electronic communications networks for providing universal services funded from the state budget or other sources not prohibited by the legislation, as provided for by the law on the state budget for a respective year.

In the event losses were incurred in connection with electronic communications networks roll-out that are subject to compensation, the universal electronic communications services provider shall have the right to request compensation of duly proven and reasoned losses from NCEC.

It should be mentioned that the practical implementation of the universal service obligation (within the scope stipulated by the EECC) was previously planned to be conducted by the end of 2022, however, due to current national circumstances, such an estimate is no longer objective).

13. Please describe the competence, structure and degree of independence of the regulatory body for electronic communications.

The Law on NCEC defines the legal status of the national regulatory authority, its tasks, functions, powers, and their exercising.

Competence

The national regulatory authority carries out the state regulation, as well as the state supervision (control) over the detection and prevention of violations of the law by undertakings and ensures the interests of society in the areas of:

- 1) electronic communications;
- 2) radio frequency spectrum;
- 3) provision of postal services.

Structure

NCEC consists of seven members, including the Chairman of the national regulatory authority, and is empowered with an appointment of more than half of its members.

The NCEC office is an organizationally united set of structural subdivisions, territorial bodies and officials that ensure its activities, as well as the exercise of its powers.

By the decision of NCEC, within the funds provided for its establishment, territorial bodies may be formed as its structural subdivisions that do not have the status of a legal entity. Territorial bodies act according to the provisions approved by the decision of NCEC. At the same time, in order to perform administrative and technical functions, technical, technological support, creation and support of works in the fields of electronic communications, radio frequency spectrum and provision of postal services, it has a subordinate state unitary commercial enterprise - State Enterprise "The Ukrainian State Center of Radio Frequencies"(UCRF).

The structure of the NCEC Office is approved by the Chairman of NCEC based on the decision of NCEC within the expenditures provided for in the State Budget of Ukraine. Currently, the structure of the NCEC Office consists of 14 independent structural units and 2 separate officials:

Communications Department

Licensing Department

Economic Analysis Department

State Supervision Department

Legal Support Department

Administrative Support Department

Financial Support Department

HR Department

Documentary Support and Archives Division

International Affairs and European Integration Division

Control Sector

Information Security Sector

Corruption Prevention and Detection Sector

Commission's Chairman Work Support Sector

Chief Expert of Internal Auditing

Chief Expert of Mobilisation Work, Labour Safety, Civil Defense, Technogenic and Fire Safety

Degree of independence

When exercising its powers, NCEC acts independently within the limits set by law.

Illegal interference of the state authorities, authorities of the Autonomous Republic of Crimea, local authorities, their officials, political parties, associations of citizens, enterprises, establishments, organisations, and institutions in the activities of NCEC is prohibited.

Members and other officials of the national regulatory authority do not have the right to directly or indirectly own the corporate rights of any undertakings operating in the field of electronic communications, radio frequency spectrum and provision of postal services in accordance with the Law of Ukraine “On Corruption Prevention”.

The activities of the national regulatory authority are legally separate from any activities related to the ownership or control of the state over the undertakings that provide electronic communications services or postal services.

Creation of NCEC

NCEC was established in accordance with the Law on NCEC based on the previous national regulatory authority of Ukraine - the National Commission for the State Regulation of Communications and Informatization (NCCIR).

Nomination and selection procedures

A candidate for the position of NCEC member must speak the state language, have qualifications, experience, in particular in the field of electronic communications, radio frequency spectrum and provision of postal services necessary for exercising his/her duties and powers of a member of the regulatory body, in particular, must have a higher education (specialist or master degree); at least five years of experience in the field of electronic communications, radio frequency spectrum and provision of postal services, including at least three years in management positions; speak a foreign language, which is one of the official languages of the Council of Europe.

The organisation and holding of the open competition are carried out by the competition commission for the selection of candidates for the positions of members of the regulatory body (hereinafter - the competition commission), which is formed and operates in accordance with the Law on NCEC. The procedure and conditions for holding an open competition shall be approved by the Cabinet of Ministers of Ukraine.

Within 30 calendar days from the date of completion of the open competition, the competition commission follows necessary procedures for the open competition, ranks the candidates for the position of a member of NCEC and publishes this result on the official website of the Cabinet of Ministers of Ukraine. During this period a special check of candidates is also carried out, provided by the Law of Ukraine “On Corruption Prevention”.

Decisions of the competition commission are taken by a simple majority of its members. In case of equal distribution of votes, the vote of the chairman of the competition commission is decisive.

The competition commission submits to the Cabinet of Ministers of Ukraine the candidates who received the highest rating and passed a special check provided by the Law on NCEC, in the form of a general list in the amount of two persons per one member of NCEC. At least two persons shall be considered for each of the defined areas of regulation.

The competition commission publishes information on the candidates who received the highest rating and were submitted to the Cabinet of Ministers of Ukraine.

The Cabinet of Ministers of Ukraine shall appoint to the position of a member of NCEC the candidates selected by the competition commission within 10 working days from the date of the relevant competition commission's submission.

The Chairman of NCEC shall be elected by the members of NCEC by secret ballot within 10 days from the date of entry into force of the order of the Cabinet of Ministers of Ukraine on their appointment. Information on the election of the Chairman shall be published on the official websites of NCEC and the Cabinet of Ministers of Ukraine.

Taking into account the final (transitional) provisions of the Law on NCEC, in order to ensure the sustainability of the activities of the NRA and ensuring fast implementation of new industry regulation, as well as taking into account the term of office of persons in the positions of the Chairman and members of the NCCIR (7 people) at the time of transition, the latter continue to exercise their powers in the relevant positions of the NCEC for a period equal to the difference between six years and the term of office until the date of entry into force of the Law on NCEC.

Budget and human resources and administrative powers

NCEC is a legal entity under public law, has separate property that belongs to the state property, and accounts in the bodies that provide treasury services for budget funds.

NCEC and its office are financed from the state budget, at the same time it independently allocates and disposes budget funds provided to it for the respective year.

The powers of NCEC include the submission of proposals to the draft law "On State Budget of Ukraine" in terms of financing its functions under the Law on NCEC and the Laws of Ukraine "On Electronic Communications" and "On Postal Services".

NCEC issues normative and legal acts in the form of resolutions subject to state registration by the Ministry of Justice of Ukraine. However, the grounds to decline their state registration can only be their inconsistency with the Constitution and laws of Ukraine, normative and legal acts of a higher legal force or international treaties approved by the Verkhovna Rada of Ukraine. Normative and legal acts of NCEC shall not contradict the Constitution and laws of Ukraine, normative and legal acts of a higher legal force or international treaties approved by the Verkhovna Rada of Ukraine.

The decisions of NCEC may be challenged only in court.

The maximum number of employees of NCEC is approved by the Cabinet of Ministers of Ukraine and currently is 300 people. The staff list of the NCEC office is approved by the Chairman of NCEC (240 people as of April 19, 2022). Currently, the staffing of NCEC is 85%. The fulfilment of the tasks assigned to the NCEC is ensured by qualified specialists with a variety of competencies. 97% of employees have a master's degree, 6 persons have PhDs. The vast majority of the personnel have a technical (53%) education, the rest have economic (20%), legal (14%) or humanitarian (13%) education.

14. How does the allocation and assignment of frequencies and numbers/codes take place? Please indicate where relevant the involvement by "Conférence Européenne des Administrations des Postes et Télécommunications" (CEPT) and International Telecommunications Union (ITU). Please provide an English version of Ukraine National Frequency Allocation Table.

According to the Law of Ukraine "On Electronic Communications" one of the main principles of radio frequency spectrum management is the convergence of band allocations, radio frequency denominations and conditions of their use in Ukraine with the international band allocation, radio frequency denominations defined for the first region of the International Telecommunication Union in the Radio Regulations of the International Telecommunication Union and the European Conference of Postal and Telecommunications Administrations".

The allocation of radio frequency bands is carried out according to the Ukraine National Frequency Allocation Table, approved by the Resolution of the Cabinet of Ministers of Ukraine № 1208 of 15 December 2005, and corresponds to the allocation determined by the Radio Frequencies Regulations of the International Telecommunication Union and the European Frequency Allocation Table.

The National Numbering Plan is developed and approved by the central executive body in the field of electronic communications and radio frequency spectrum for electronic communications networks and services.

Regulation of the use of the numbering resource is carried out by NCEC.

The primary allocation of the numbering resource (granting the right to use a share of the numbering resource (indicating indices, number capacity, certain network codes, services, etc.) in the electronic communications network to provide electronic communications services) is carried out by NCEC on a permit basis, taking into account the requirements of the national numbering plan and the Law of Ukraine "On Electronic Communications".

The user of the numbering resource performs secondary allocation of the numbering resource to the end-users of electronic communication services.

Frequency allocation

Ukraine is a member of ITU and CEPT. Accordingly, the Radio Frequency Allocation Plan for Ukraine complies with the decisions of the ITU and European Radio Frequency Allocation Table (ECA).

Ukraine is a member of ITU Radio Frequency Allocation Region I. The National Radio Frequency Allocation Table of Ukraine (hereinafter referred to as NRAT) corresponds to the allocation between radio services in ITU Region I. The Radio Frequency Plan of Ukraine determines the allocation between certain radio technologies and bands and corresponds to the National table of radio frequency allocation, the allocation between radio services in Region I, and takes into account the recommendations of CEPT for the implementation of certain radio technologies.

In accordance with the Law of Ukraine "On Electronic Communications" (hereinafter – the Law), the Plan for Allocation and Use of the Radio Frequency Spectrum in Ukraine is planned on the basis of NRAT and the Plan for the Use of Radio Frequencies in Ukraine. At the same time, compliance with ITU recommendations, acts of law of the European Union, decisions of CEPT, and other international organisations, of which Ukraine is a member, is preserved.

In accordance with Article 42 of the Law, the Plan of radio frequency spectrum allocation and use in Ukraine is developed by the central executive authority in the spheres of electronic communications and radio frequency spectrum based on the proposals and with the participation of NCEC, the General Staff of the Armed Forces of Ukraine, the National Council of Ukraine on Television and Radio Broadcasting, other interested public authorities as well as public associations and business entities. The central executive authority in the fields of electronic communications and

radio frequency spectrum submits a plan for the allocation and use of the radio frequency spectrum in Ukraine and submits it to the Cabinet of Ministers of Ukraine for approval.

The use of radio frequency spectrum is carried out on the basis of general authorisation or individual rights on the basis of licences for the use of radio frequency spectrum (Article 46 of the Law). The rights to use the radio frequency spectrum on an individual basis are granted taking into account the demand for the relevant radio frequency bands. In accordance with Article 59 of the Law, if the declared demand for radio frequency spectrum exceeds its actual availability, the radio frequency spectrum is provided for use solely on the basis of a tender or auction.

The NCEC is responsible for defining the conditions for spectrum auctions and competitive award procedures, the terms and conditions of individual spectrum licences and general authorisations and the approval of shared spectrum use, spectrum lease or individual licence transfer. The NCEC is also in charge of spectrum monitoring and operates the register of issued spectrum licences.

Number resource allocation

The Law of Ukraine "On Electronic Communications" (hereinafter – the Law) establishes:

format and structure of numbering of electronic communications networks established by the National Numbering Plan developed and approved by the central executive authority in the fields of electronic communications and radio frequency spectrum for electronic communications networks and services, in particular taking into account the harmonised use of numbering resources in accordance with the requirements of the ITU and international treaties of Ukraine, whose consent to be binding has been granted by the Verkhovna Rada of Ukraine;

powers of NCEC to allocate numbering resources to economic entities listed in the register of providers of electronic communications networks and services for carrying out activities in the field of electronic communications, as well as other legal entities for carrying out economic activities not related to the provision of electronic communications services (technological users of the numbering resource) for the period of five years

powers of the Cabinet of Ministers of Ukraine includes setting the amount of the fee for the issuance, renewal and prolongation of permits for the use of numbering resources and the procedure for their payment to the State Budget of Ukraine;

grounds for the NCEC decision to issue, renew, extend and revoke permits to use numbering resources, and the grounds for refusal in making a positive decision.

The allocation of network codes, service codes, short numbers (limited number) is carried out by the NCEC on a competitive basis and in accordance with the procedure established by it.

The granting of the right to use the numbering resource for the provision of electronic communications services is carried out by the decision of the NCEC by issuing a permit to the undertaking to use the numbering resource. The application documents are examined at an open meeting of the NCEC and adopted by majority vote.

Authorization is issued electronically by making an entry in the electronic register of primary allocation of numbering resources, maintained by NCEC, and contains the conditions for the use of the numbering resource, in particular

- 1) the types of services for which the numbering resource is to be used;

- 2) the period of time for which permission is granted, the territory for the use of the numbering resource;
- 3) compliance with obligations regarding the rights to use the numbering resource, if it was allocated by tender or auction;
- 4) compliance with the obligations regarding non-discriminatory access to electronic communications services, using the numbering resource assigned to other network providers, and/or electronic communications services;
- 5) the possibility and conditions for the transfer or granting for use of the rights over the numbering resource indicated in the authorization.

In the cases and in the manner prescribed by NCEC, the user of the numbering resource is entitled to transfer or grant for use its numbering rights to other economic entities, subject to notification to NCEC, and in respect of network codes, service codes, short social numbers by reissuing the relevant authorization.

The NCEC keeps general records of allocated numbering resources (register of primary numbering resources) of the types defined by ITU-T Recommendations ITU-T Rec.E.164, ITU-T Rec.E.212, ITU-T Rec.Q.708.

In addition, the Law determines measures to counteract unauthorised assignment and use of international and national numbering resources, the procedure for termination of use of such resource and conditions for application of liability of network and service providers for violation of requirements for the use of numbering resource.

The percentage of issued authorizations for the use of numbering resource from the total number of operators' applications for local telephone networks, service codes 800, 900, fixed network codes of non-geographic numbering plan, SCS-7 (SS-7) signalling codes, short numbers for 2015-2021 period is 99.2%.

15. Describe the 'rights of way' procedures in Ukraine.

Providers of electronic communications networks and services under the Law of Ukraine “On Electronic Communications” (hereinafter - the Law) have the right to access land plots and infrastructure for deployment and operation of electronic communications networks, as well as planning and development of their own electronic communications networks according to the requirements specified by the Land Code of Ukraine and other laws of Ukraine.

According to Article 25 of the Law the placement of construction facilities which form part of electronic communications networks or infrastructure thereof on the land plots shall be in accordance with the Land Code of Ukraine, the Law of Ukraine “On Regulation of Urban Planning Activity”.

The operators have the right to request the owners of land plots or land users to establish ‘rights of way’ to the land categories as stipulated by the Land Code of Ukraine, with the view to deployment and operation of public electronic communications networks and/or infrastructure.

Establishing ‘rights of way’ for deployment and operation of electronic communications networks and termination thereof shall be in accordance with the Land and Civil Codes of Ukraine with the account taken of specific features stipulated by the above-mentioned Article.

According to Article 75 of the Land Code of Ukraine providers of electronic communications networks and/or services, which in accordance with the Law are included in the state register of electronic communications networks and/or services providers, have the right to demand landowners or land users to establish ‘rights of way’, including personal ‘rights of way’ to lands for electronic communications, defined by the relevant Code, for laying down and/or repairing underground electronic communication networks.

It should be noted that the Law also implements a number of provisions of Directive 2014/61/EU of the European Parliament and of the Council of 15 May 2014 on measures to reduce the cost of deploying high-speed electronic communications networks, in particular regarding relationships between electronic communications operators, providers of electronic communications networks/services, including “access to the physical infrastructure of electronic communications networks and/or service providers for the purpose of deploying public electronic communications networks” in accordance with the principles set out in the Directive.

It should also be noted that on February 17, 2022, the Verkhovna Rada of Ukraine adopted the Law “On Amendments to Section V “Final Provisions” of the Law of Ukraine “On Regulation of Urban Planning Activity” on simplifying placement of technical means of electronic communications”. This Law simplifies the procedure for obtaining the right to use land by mobile operators to place electronic means of electronic communications to provide 95% of the population of Ukraine with access to mobile high-speed Internet, indirect promotion of ecotourism, recreation, and tourism. In addition, it is also planned to establish by January 1, 2026, a simplified procedure for the use of land up to 0.05 hectares for the placement, construction, operation and maintenance of mobile base stations, other technical means and/or electronic communications facilities (except linear), electronic communication networks on the state or communal lands located in rural areas and outside settlements.

In order to approximate the legislation of Ukraine to the EU legislation and the provisions of Directive 2014/61/EU in 2017 it was also adopted the Law of Ukraine “On Access to the Facilities of Construction, Transport, Electric Power Industry for the Purpose of Development of Electronic Communications Networks” (hereinafter – the Law).

The Law defines the legal, economic, and organisational principles of ensuring access to infrastructure facilities of construction, transport, electric power, cable ducts of telecommunications, building distribution networks for the placement of telecommunications equipment to ensure the development of information society in Ukraine, establishes the powers of the state authorities, local authorities, determines the rights and responsibilities of persons involved in such economic relations.

The Law also aims to create conditions for competition development in the telecommunications services market by ensuring the efficient use of existing infrastructure elements of the access facility.

The Law regulates the relations that arise between the infrastructure owners of the access facility of all forms of ownership and the customers, when accessing the infrastructure of the respective access facility. However, the Law does not extend to relations related to access to telecommunications facilities, building distribution network and telecommunications cable ducts owned by operators and telecommunications providers.

In pursuance of the requirements of the Law the relevant resolutions of the Cabinet of Ministers of Ukraine approved:

- 1) Rules for providing access to the infrastructure of the construction facility;

- 2) Rules for providing access to the infrastructure of the transport facility;
- 3) Rules for providing access to the infrastructure of the electric power facility;
- 4) Rules for providing access to the infrastructure of the telecommunications cable ducts;
- 5) Rules for providing access to the infrastructure of the building distribution network.

The rules for providing access establish the general procedure for access to the infrastructure of the respective access facility.

Relevant competent central executive bodies of Ukraine have developed and approved the relevant Methodologies establishing fees for access to the elements of the relevant infrastructures.

16. Implementation of the European Emergency number 112: describe the cooperation provisions between all the relevant authorities in the sector (i.e. the cooperation between the competition authority and the regulatory authority in charge of electronic communications).

According to the Resolution of the Cabinet of Ministers of Ukraine of 21 July 2021 № 824-r, the Ministry of Internal Affairs of Ukraine is responsible for the implementation of the European Emergency number 112.

The interdepartmental working group on the creation and implementation of an emergency assistance system to the single telephone number 112 was established. The head of the working group is Deputy Minister for Internal Affairs. The members of working group are representatives of: the Ministry of Internal Affairs, Ministry of Digital Transformation, Ministry of Health, National Police, Ministry of Infrastructure, State Emergency Service of Ukraine, Secretary of the Cabinet of Ministers, National Regulatory Authority (NCEC), Ukrtelecom (largest fixed line operator in Ukraine), State Service of Special Communication and Information Protection.

The draft Law of Ukraine "On Amendments to Certain Legislative Acts of Ukraine Concerning the Separation of Powers between the Central Executive Body Ensuring the Formation of State Policy in the Sphere of Civil Protection and the Central Executive Body Implementing State Policy in the Sphere of Civil Protection" was developed (registered in the Verkhovna Rada of Ukraine on 12 August 2021 for № 5847) and adopted as a basis (16/02/2022). The draft provides, in particular, amendments to the Law of Ukraine "On the system of emergency assistance to the population on a single telephone number 112" in terms of consolidating powers to implement and ensure the functioning and development of System 112 by the Ministry of Internal Affairs of Ukraine.

The draft order of the Cabinet of Ministers of Ukraine "On approval of the action plan to create a system of emergency assistance to the population on a single telephone number 112", was submitted to the Cabinet of Ministers of Ukraine for consideration (22 February 2022).

Telephone number 112 is allocated (reserved) as a single emergency services number in the National Numbering Plan of Ukraine (Order of the Ministry of Transport and Communications of Ukraine dated 23.11.2006 № 1105 On approval of the National Numbering Plan of Ukraine).

D. Description of sector

17. What is the current stage of sector liberalisation?

The telecommunications (electronic communications) sector has been fully liberalised since 2019 when the general authorization regime was introduced by primary legislation for the first time.

According to the Law on Electronic Communications the economic activity in the field of electronic communications shall be carried out on a basis of the general authorisation, apart from cases of the use of radio spectrum and numbering resources as provided in the law.

Undertakings that intend to carry out economic activity as electronic communications networks and/or services providers shall send a notification of the commencement of activity in the field of electronic communications to the NCEC.

With the emergence of market relations in Ukraine, the newly established telecommunications operators to provide telecommunications services to consumers, usually fixed telephony, initially used the infrastructure (telecommunications networks) of the state operator and their own switching equipment.

Subsequently, the operators began to develop their own telecommunications networks in order to cover a larger number of consumers, while the networks were built exclusively in compliance with the state building norms in the field of communications.

Telecommunications network infrastructure sharing is currently not regulated by the state and is carried out exclusively on a contractual basis between the parties.

Provisions regarding public electronic communications networks interconnection for the provision of electronic communications services have been introduced in the legislation since December 2005. The Law on NCEC delegates NCEC the task of developing and approving the rules for interconnection of electronic communications networks and main requirements for agreements on interconnection of electronic communications networks.

With the spread of the Internet the construction and sharing of Internet access networks are not regulated by the state and carried out exclusively on a contractual basis between the parties.

Given the commitments in the field of trade in services that Ukraine undertook when it joined the World Trade Organization in 2008, in terms of market access, the trade in the telecommunications (electronic communications) services sector has been significantly liberalised ¹⁸.

Fixed telephony

As of 31 December 2021, 213 operators of electronic communications had the right to use the numbering resources of public electronic communications networks of Ukraine on the basis of 1261 permits.

In order to provide market participants with comprehensive and complete information on the status and volume of numbering resources allocated to operators of electronic communications, the national regulatory authority publishes on its website a monthly data on the primary distribution of all types of numbering resources indicating indices and volumes of numbering resources, service names and territory of use, information on current permits for the use of numbering resources.

¹⁸https://docs.wto.org/dol2fe/Pages/FE_Search/FE_S_S009-DP.aspx?language=E&CatalogueIdList=64256&CurrentCatalogueIdIndex=0&FullTextHash=&HasEnglishRecord=True&HasFrenchRecord=True&HasSpanishRecord=True

Types of numbering resources and number of operators who have permits to use them, as of 31.12.2021

Types of numbering resources	Number of operators
Geographical numbers of local telephone networks	193
Common channel signalling codes -7 (national, NSP)	163
800, 900 service operator codes	18
Common channel signalling codes -7 (international, ISPC)	10
Destination network codes 89x (non-geographic fixed networks, DN code)	7
Mobile destination network codes, DN code	6
MNC codes	10
Short numbers	6

Mobile telephony and mobile Internet

Mobile radiocommunications:

7 operators received their first licences for mobile radio communications in 1997.

As of 2022 the current licences for mobile radiocommunications have the following undertakings:

- Private Joint Stock Company “Kyivstar”;
- Private Joint Stock Company “VF Ukraine”;
- Limited Liability Company “lifecell”;
- Limited Liability Company “INTERNATIONAL TELECOMMUNICATIONS”;
- Limited Liability Company “TriMob”;
- Private Joint Stock Company “TELESYSTEMS OF UKRAINE”.

Broadband and multiservice radio access:

16 operators received the first licences to organise a data transmission network using noise-shaped signal equipment in 1999.

401 operators have valid licences for broadband and multiservice radio access as of 2022.

Fixed Internet

Since Ukraine's access to the Internet in 1990, the national segment of the Network has developed without government intervention and regulation. In the spring of 1991, “Technosoft” was granted Internet Service Provider (ISP) status. After Kyiv, Kharkiv connected to the Internet, and by the end of 1991, the ts.kiev.ua node served users not only in the capital, but also in many other cities in Ukraine. On 1 December 1992, the Internet Assigned Numbers Authority (IANA) delegated the top-level domain – “.ua” to Ukrainian specialists (the new domain was administered on a voluntary basis). In the same year, the first Ukrainian Internet providers began to appear.

Since 2008, the construction of the broadband Internet segment began with the use of fiber-optic technology. By the end of 2021, the share of fixed Internet access lines using fiber-optic cable in the total number of fixed Internet lines in terms of technology amounted to 84.3%, of which FTTx - 54% and xPON - 30.3%.

Active development is explained by the fact that from the first years of Ukrainian telecommunications market establishment, Internet provision was almost the only activity that was not licensed by the state. The competition was and remains very high.

Today, fixed Internet access services in Ukraine are provided using fiber-optic, copper communication lines, coaxial cable, satellite channels and wireless access, and the country ranks 57th in the Speedtest Global Index in terms of fixed Internet speed, which in December 2021 amounted to 52.37 Mbps.

As of 31 December 2021, there were 4370 business entities registered in Ukraine that provide Internet access services to consumers.

In the distribution structure of the Internet fixed access lines (points), the largest share is the lines (points) of fixed access at speeds from 30 to 100 Mbps, the share of which in the total number of lines (points) of fixed access to the Internet in 2021 amounted to 59.7%.

18. What are the number of operators and the types of authorisation?

According to the Law on Electronic Communications the economic activity in the field of electronic communications shall be carried out on a basis of the general authorisation, apart from cases of the use of radio spectrum and numbering resources as provided in the law.

Undertakings that intend to carry out economic activity as electronic communications networks and/or services providers shall send a notification of the commencement of activity in the field of electronic communications to the NCEC.

Type of authorization for using the numbering, radio frequency resources and satellite resources – individual authorization, licences (permits).

a) public voice telephony (public telephone network (PSTN), alternative infrastructures, such as public utilities);

As of 1 January 2022, 213 electronic communications operators had the right to use different types of numbering resources (including geographical numbers) on public electronic communications networks in Ukraine, including 193 operators that provide number-based interpersonal electronic communications services

b) public terrestrial mobile communications (analogue and digital non-GSM, GSM, DCS 1800 (high frequency GSM), UMTS (3G digital mobile system), WiMAX, paging, etc. (e.g. CDMA, LTE));

Number of operators with valid mobile licences: 6 (individual authorization).

Operator	Radio technology	Number of valid licences
Private Joint Stock Company "Kyivstar"	Digital cellular communications E - GSM	2 (National)
	Digital cellular communications GSM - 900	2 (National)
	International mobile telecommunications IMT	3 (National)
	International mobile telecommunications IMT (can use radio technology "International mobile telecommunications IMT" and radio technology "Digital cellular communications GSM-1800")	3 (National)
	International mobile telecommunications IMT, Digital cellular communications GSM-900, Digital cellular communications E-GSM	1 (National)
	Digital cellular communications IMT-2000 (UMTS)	1 (National)
Private Joint Stock Company "VF Ukraine"	Digital cellular communications GSM - 900	2 (National)
	International mobile telecommunications IMT	2 (National)

	International mobile telecommunications IMT (can use radio technology “International mobile telecommunications IMT” and radio technology “Digital cellular communications GSM-1800”)	2 (National)
	International mobile telecommunications IMT, Digital cellular communications GSM-900	1 (National)
	Digital cellular communications IMT-2000 (UMTS)	1 (National)
Limited Liability Company “lifecell”	Digital cellular communications GSM - 900	1 (National) 1 (Regional)
	International mobile telecommunications IMT	2 (National)
	International mobile telecommunications IMT (can use radio technology “International mobile telecommunications IMT” and radio technology “Digital cellular communications GSM-1800”)	1 (National)
	International mobile telecommunications IMT, Digital cellular communications GSM-900	1 (National)
	Digital cellular communications IMT-2000 (UMTS)	1 (National)
Limited Liability Company “INTERNATIONAL TELECOMMUNICATIONS”	Digital cellular communications CDMA - 800	2 (Regional)
Limited Liability Company “TriMob”	Digital cellular communications IMT-2000 (UMTS)	1 (Regional)

Private Joint Stock Company “TELESYSTEMS OF UKRAINE”.	Digital cellular communications CDMA - 800	1 (Regional)
---	---	--------------

c) private terrestrial mobile telecommunications (e.g. taxi, transport, emergency services);

Number of operators who have valid licences for analog and digital ultra-shortwave radiotelephone, analog and digital trunking radio: 20 (individual authorization).

d) satellite communications;

Number of operators with valid satellite licences: 13 (individual authorization).

Operator	Radio technology	Number of valid licences
State Enterprise “Ukrkosmos”	Satellite radio communication (satellite network Azerspace)	1 (Regional)
	Satellite radio communication (satellite network Amos)	6 (Regional)
Foreign company “1+1 PRODUCTION”	Satellite radio communication (satellite network Astra)	1 (Regional)
Concern of radio broadcasting, radio communication and television	Satellite radio communication (satellite network Hellas Sat)	1 (Regional)
Private Joint Stock Company “DATAGROUP”	Satellite radio communication (satellite network INTELSAT)	1 (Regional)
	Satellite radio communication (satellite network EUTELSAT)	1 (Regional) 2 (National)
Private enterprise “Bainleumi Ukraine”	Satellite radio communication (satellite network THOR)	1 (Regional)

	Satellite radio communication (satellite network Iridium)	1 (Regional)
	Mobile satellite radio communication (satellite network Inmarsat)	1 (Regional)
Limited Liability Company “SES SIRIUS UKRAINE”	Satellite radio communication (satellite network Astra)	3 (Regional)
Limited Liability Company “TV Channel STB”	Satellite radio communication (satellite network Amos)	3 (Regional)
Limited Liability Company “TRK KLAS”	Satellite radio communication (satellite network EUTELSAT)	1 (Regional)
Limited Liability Company “EUROPORT”	Satellite radio communication (satellite network EUTELSAT)	1 (Regional)
Limited Liability Company “Information Agency “TV-SAT”	Satellite radio communication (satellite network Astra)	1 (Regional)
Limited Liability Company “SATTRANS – UKRAINE”	Mobile satellite radio communication (satellite network Inmarsat)	1 (Regional)
	Mobile satellite radio communication (satellite network Iridium)	1 (Regional)
	Mobile satellite radio communication (satellite network Thuraya)	1 (Regional)
Limited Liability Company “SPOT C”	Mobile satellite radio communication (satellite network Inmarsat)	1 (Regional)
	Mobile satellite radio communication (satellite network Iridium)	1 (Regional)

Limited Liability Company “SPOTME”	Mobile satellite radio communication (satellite network Inmarsat)	1 (Regional)
	Mobile satellite radio communication (satellite network Iridium)	1 (Regional)

e) data transmission;

Number of operators with valid licences for broadband and multiservice radio access, radio data communication: 401 (individual authorization), for radio relay communication: 28 (individual authorization).

f) cable television;

Business entities that intend to obtain a cable broadcasting licence are subject to licensing by the National Council of Ukraine on Television and Radio Broadcasting. Such licensing is carried out in accordance with the Law of Ukraine "On Television and Radio Broadcasting" on a non-competitive basis.

The broadcasting licence is issued to the applicant on the basis of the decision of the National Council to issue a licence no later than ten days after the payment of the licence fee, which is confirmed by the relevant document of the body providing treasury services. If the National Council has decided on a different procedure for payment of the licence fee, the licence shall be issued to the applicant no later than thirty days after the decision to issue a broadcasting licence. The National Council has licensed 142 such broadcasters.

g) others (not covered by the above categories).

Number of operators who have valid licences for digital wireless telephony: 1 (individual authorization).

Operator	Radio technology	Number of valid licenses
Private Joint Stock Company “DATAGROUP”	Digital wireless telephony	1 (Regional)

19. What are the manufacturers and manufacturing activities for network equipment and terminals in Ukraine?

According to an assessment carried out by the NCCIR at the end of 2017, the total number of national manufacturers of radio equipment was 19, with a projected increase to 26 manufacturers in 2023.

The estimate needs to be reviewed within two years after the end of the Russian Federation's armed aggression against Ukraine.

20. Which are the main public electronic communications operator(s)? Please refer to:

a) Ownership and control of the operators;

According to law, the NCEC does not have the authority to collect information on the ownership structure of economic entities. The data provided below is public information (taken from companies' official websites), mostly – financial statements for 2020).

Operator	Ownership (control) information*
Private Joint Stock Company “Kyivstar”, legal address: 03113, Kyiv, street Degtyarivska, 53	VEON Holdings B.V. (Kingdom of the Netherlands) – 99,995%, VEON Ltd. (Bermuda) – 0,005% ¹⁹
Private Joint Stock Company “VF Ukraine” legal address: 01601, Kyiv, Leipzig street 15	TELCO SOLUTIONS AND INVESTMENTS LLC – 99 %, PTT Telecom Kyiv – 1% ²⁰
Limited Liability Company “lifecell” legal address: 03110, Kyiv, Solomyanska street, 11, Block “A”	Turkcell İletişim Hizmetleri A.S. (Turkey) – 100 % ²¹
Joint Stock Company “Ukrtelecom”, legal address: 01601, Kyiv, Taras Shevchenko Boulevard, 18	ESU LLC – 92.791%, other legal entities – 5.839%, individuals – 1,363%
Private Joint Stock Company “DATAGROUP”, legal address: 03057, Kyiv, street Smolenska, 31-33	Datagroup Holding Limited (Republic of Cyprus)– 100 %

¹⁹ International Financial Reporting Standards Separate Financial Statements and Independent Auditor's Report_2020

²⁰<https://www.vodafone.ua/storage/editor/files/interim-condensed-conso-fs-as-of-30-june-2021-final-with-report-signed.pdf>

²¹https://www.lifecell.ua/uploads/filelibrary/public/by_month/2021/05/Consolidated%20financial%20statements%20in%20accordance%20with%20IFRS%20and%20Independent%20auditor's%20report%20for%202020%20year.pdf

Private Joint Stock Company “FARLEP – INVEST” legal address: 01011, Kyiv, Eugene Gutsal Lane, 3	PJSC VF Ukraine – 99.99%
---	--------------------------

** based on financial reporting documents and reports of independent auditors (see links)*

The operator of the state form of ownership is the Concern of Radio Broadcasting, Radio Communications and Television (hereinafter - the Concern RRT) - the state operator of television and radio broadcasting, radio relay and satellite communications.

The RRT concern belongs to the sphere of management of the Administration of the State Service of Special Communication and Information Protection of Ukraine.

RRT Concern is a state economic association of undertakings, established in 1991, which was formed as an integrated property complex for the distribution of radio and television programs in Ukraine.

The Concern consists of 2 SOE's, 7 directorates, 25 branches and has no subsidiaries.

At the same time, the Decree of the President of Ukraine of March 19, 2022 № 151/2022 put into effect the Decision of the National Security and Defense Council of Ukraine of March 18, 2022 "On neutralisation of threats to information security of the state", according to which a special regime was introduced for the operator of T2 digital television broadcasting LLC "Zeonbud" and its joint operation with the state Concern RRT.

b) Type of authorisation

Use of radio frequency spectrum

Operator	Type of permit (authorization)
Private Joint Stock Company “Kyivstar”	Licence for the use of radio frequency spectrum (International mobile telecommunications IMT)
	Licence for the use of radio frequency spectrum (International mobile telecommunications IMT (can use radio technology “International mobile telecommunications IMT” and radio technology “Digital cellular communications GSM-1800”))
	Licence for the use of radio frequency spectrum (International mobile telecommunications IMT, Digital cellular communications GSM-900, Digital cellular communications E-GSM)

	Licence for the use of radio frequency spectrum (Radio relay communication)
	Licence for the use of radio frequency spectrum (Digital cellular communications GSM - 900)
	Licence for the use of radio frequency spectrum (Digital cellular communications E - GSM)
	Licence for the use of radio frequency spectrum (Digital cellular communications IMT-2000 (UMTS))
	Licence for the use of radio frequency spectrum (Broadband radio access)
Private Joint Stock Company “VF Ukraine”	Licence for the use of radio frequency spectrum (International mobile telecommunications IMT)
	Licence for the use of radio frequency spectrum (International mobile telecommunications IMT (can use radio technology “International mobile telecommunications IMT” and radio technology “Digital cellular communications GSM-1800”))
	Licence for the use of radio frequency spectrum (International mobile telecommunications IMT, Digital cellular communications GSM-900)
	Licence for the use of radio frequency spectrum (Radio relay communication)
	Licence for the use of radio frequency spectrum (Digital cellular communications GSM - 900)
	Licence for the use of radio frequency spectrum (Digital cellular communications IMT-2000 (UMTS))
	Licence for the use of radio frequency spectrum (Broadband radio access)
Limited Liability Company “lifecell”	Licence for the use of radio frequency spectrum (International mobile telecommunications IMT)
	Licence for the use of radio frequency spectrum (International mobile telecommunications IMT (can use radio technology

	“International mobile telecommunications IMT” and radio technology “Digital cellular communications GSM-1800”)
	Licence for the use of radio frequency spectrum (International mobile telecommunications IMT, Digital cellular communications GSM-900)
	Licence for the use of radio frequency spectrum (Radio relay communication)
	Licence for the use of radio frequency spectrum (Digital cellular communications GSM - 900)
	Licence for the use of radio frequency spectrum (Digital cellular communications IMT-2000 (UMTS))
	Licence for the use of radio frequency spectrum (Broadband radio access)
Joint Stock Company “Ukrtelecom”	Licence for the use of radio frequency spectrum (Radio relay communication)
	Licence for the use of radio frequency spectrum (Broadband radio access)
Private Joint Stock Company “DATAGROUP”	Licence for the use of radio frequency spectrum (Radio relay communication)
	Licence for the use of radio frequency spectrum (Satellite radio communication)
	Licence for the use of radio frequency spectrum (Digital wireless telephony)
	Licence for the use of radio frequency spectrum (Broadband radio access)
Private Joint Stock Company “FARLEP – INVEST”	Licence for the use of radio frequency spectrum (Multiservice radio access)
	Licence for the use of radio frequency spectrum (Radio relay communication)

	Licence for the use of radio frequency spectrum (Broadband radio access)
--	--

Table: Allocated types of numbering resources used by major operators on the basis of the national regulatory authority's permits for voice services, Internet access, M2M/IoT on mobile and fixed electronic communications networks

Operator		JSC "Ukrtelecom"	PJSC "KYIVSTAR "	PJSC "VF Ukraine"	LLC "Lifesell"
Permits		226	93	82	52
Numbering resource type (numbers/co des quantity)	Geographical numbers within the numbering zone	21 891 690	560 800	185 000	130 000
	Mobile Destination Network Code, DN code	-	5	4	3
	Fixed Destination Network Code 89x, DN code	1	1	-	-
	Mobile Network Code, MNC	1	2	1	1
	800 Global Service Operator Code	1	1	1	1
	900 Global Service Operator Code	1	-	-	-
	Alternative intercity or international telephone network selection code	-	-	-	2
	Common channel signalling code SS-7 (international (ISPC), national (NSPC))	905	6	37	10

	Short numbers	146	32	27	28
--	---------------	-----	----	----	----

c) Principal subsidiaries

According to law, the NCEC does not have the authority to collect information on the subsidiaries of economic entities. The data provided below is public information (taken from companies' official websites), mostly – financial statements for 2020).

Operator	Main subsidiaries*
Private Joint Stock Company “Kyivstar”	Subsidiary Enterprise “Staravto” – 100%, StarMoney LLC – 100% ²²
Private Joint Stock Company “VF Ukraine”	VF Retail LLC – 100%, IT Smart Flex LLC – 99%
Limited Liability Company “lifecell”	Paycell LLC – 99.9 % ²³
Joint Stock Company “Ukrtelecom”	TriMob LLC – 100%, Ukrtel Global GmbH (Federal Republic of Germany) – 100%
Private Joint Stock Company “DATAGROUP”	PJSC Podil Telephone Company MITEL – 100%, Vostok Trade Ltd – 99.9%, LLC DATAGROUP MEDIA – 95.0%, Private Enterprise “MAINSTREAM” – 95%, LLC Global Telecommunication Systems – 99.5%, LLC DARLIX-KR – 99.9%, LLC UACITY PLUS - 99.9%, LLC EGROU – 99.96%, Private Enterprise “Private Tv Studio “DECEBAL” – 100%, LLC INTERLINK – 81.59%, LLC INTERLINK INTERNET SERVICE PROVIDER – 99.9%

²² International Financial Reporting Standards Separate Financial Statements and Independent Auditor's Report 2020

²³ https://www.lifecell.ua/uploads/filelibrary/public/by_month/2021/05/Consolidated%20financial%20statements%20in%20accordance%20with%20IFRS%20and%20Independent%20auditor's%20report%20for%202020%20year.pdf

	TV AND RADIO COMPANY “KRAEVYD”– 99.9%
Private Joint Stock Company “FARLEP – INVEST”	Cable TV-Finance LLC – 5% (exercises control) ²⁴

** based on financial reporting documents and reports of independent auditors (see links)*

21. What strategic electronic communications alliances exist in Ukraine?

In order to protect their own interests and to create favourable organisational and economic conditions for the activities of telecommunication market participants, its further development and liberalisation, independent telecommunication associations operate in Ukraine, namely:

- **The Ukrainian Association of Telecommunications Operators "Telas"** (established in 1997), an independent voluntary organisation uniting companies involved in the development and operation of the telecommunications services market, is currently one of the leading associations of operators and communication providers in Ukraine. The association includes all mobile operators and the largest fixed-line service providers. The founders of the association are such companies as PJSC Kyivstar, PJSC VF Ukraine and JSC Ukrtelecom. Its members provide services in excess of 80% of the total telecommunications services in the country.

Cooperation of the Association with the state bodies provides an opportunity to create favourable organisational and economic conditions for operators, further development of the telecommunications market and its liberalisation.

The main goal of the Association is to protect the rights and legitimate interests of Ukrainian telecom operators, support the conditions of their development, promote the reform of the telecommunications industry and the development of the telecommunications market.

The Internet Association of Ukraine (hereinafter - InAU) was established in 2000 to consolidate the efforts of all stakeholders in the development of the Internet in Ukraine. Members of InAU are the largest Ukrainian operators and providers of Internet access services, content providers, electronic and traditional media, and equipment suppliers. The total number of companies is more than 200 market participants.

The daily activity of InAU is the practical implementation of projects that contribute to the development of the Ukrainian segment of the global Internet. InAU pays special attention to

²⁴ https://www.vodafone.ua/storage/editor/files/vf-ukraine-3q2021-results_1637073313.pdf

protecting the legitimate interests of its members by providing them with advisory and legal support, and ensuring dialogue with government agencies.

InAU constantly conducts expert-analytical work on the analysis, development and adjustment of the legislative and regulatory framework of Ukraine.

The significant influence that InAU has today on the development of the Internet in Ukraine is based on combining expert-analytical, intellectual, organisational and technical potentials and many years of practical experience of the largest Ukrainian Internet service providers, content providers, electronic and traditional media, equipment suppliers and public organisations that are members of the Association.

Association "Telecommunication Chamber of Ukraine" (hereinafter - TelCU) (established in 2007) - an association of legal participants in the Digital Communication services industry, which advocates for a level playing field and a favourable environment for fair business in the field of Internet communications.

The association was founded by cable TV provider Volia, pay TV market enterprises - satellite platforms Viasat and OTT-service Megogo, telecommunication companies Datagroup, Emplot, Freinet.

TelCU consists of legal entities operating in the field of telecommunications: telecommunication network operators, software service providers, as well as other legal entities engaged in related activities.

TelCU's activities are aimed at improving sectoral legislation through constructive cooperation with public authorities, stimulating the development of high-tech telecommunications services, implementation of European standards in providing quality Internet services, development of self-regulation of pay TV and telecommunications, creating favourable conditions for the development of pay TV and telecommunications, attracting foreign investment in the industry.

Association of rights owners and content suppliers was founded in 2011. The main purpose of the Association is to create favourable conditions for the development of the business of rights owners and content providers in Ukraine, deregulation of the activities of economic entities in the field of television and information.

Antimonopoly authorities' permission is not required for operation and establishment of such associations in Ukraine.

22. What type of cost accounting system is used by the main public network operator(s) and/or the operators with significant market power?

The obligation to regulate prices and cost accounting in wholesale markets is regulated by Article 90 of the Law of Ukraine "On Electronic Communications" (hereinafter – the Law). Thus, the NCEC has the power to impose regulatory obligations on providers of electronic communications networks and/or services (on wholesale markets) with significant market power related to cost accounting and price control, in particular to orient prices towards cost and/or to account for the costs of providing certain types of network interconnection or access.

The NCEC establishes requirements for a system of cost accounting and price orientation for the provision of certain types of network interconnection or access, which should facilitate the

construction of new and development of existing electronic communications networks, effective competition and maximize benefits for end-users. Such requirements should provide for conditions to take account of access prices in similar competitive markets. The establishment of relevant requirements was previously planned to be conducted by the end of 2022, however, due to current national circumstances such an estimate is no longer objective.

The provider of electronic communications networks and/or services subject to cost-orientation obligations shall, prior to their application, provide the NCEC with justification that its prices are cost-based and include a certain rate of return, and an audit opinion on the compliance of the cost accounting system with requirements.

If the NCEC finds that the prices do not comply with the requirements, a decision shall be taken on the obligation to adjust the prices within a time limit determined by the decision.

In the case of imposition of obligations on the cost accounting system to support price control, the NCEC shall establish and make publicly available on the electronic regulatory platform its basic requirements, in particular the categories in which costs are recorded, the rules applicable to cost allocation and the annual audit reports on the compliance of the cost accounting system with related requirements.

Information on the types of cost accounting system used by the main public network operators and/or SMP-operators is currently unavailable, due to the novelty of electronic communications legislation and lack of by-laws defining such a cost system, as well as because no obligations have been imposed in practice yet.

Retail price regulation

Regulatory control of retail electronic communications services is defined in Article 98 of the Law.

The NCEC issues a decision imposing regulatory obligations on providers of electronic communications services with significant market power on a certain retail market if the following conditions are simultaneously met:

- 1) as a result of a market analysis, the NCEC finds that the particular retail services market is not effectively competitive;
- 2) the NCEC concludes that the obligations imposed on the relevant wholesale electronic communications markets have not achieved the objectives laid down in the Law.

Accordingly, the NRA decides to impose regulatory obligations on electronic communications service providers with significant market power on a particular retail market related to:

- 1) setting maximum retail price cap;
- 2) control of individual tariffs (determined by the NCEC) for electronic communication services;
- 3) orienting the tariffs (prices) for electronic communication services towards cost;
- 4) orienting tariffs (prices) for electronic communication services to prices on similar markets.

A telecommunications (electronic communications) operator with significant market power, subject to the aforementioned regulatory obligations, must apply cost accounting systems in accordance with the requirements established by the NCEC (accounting format and methodology).

The NCEC shall annually confirm the compliance with these requirements by an audit report, which shall be submitted to the NCEC within the deadlines set by the NCEC.

The NCEC shall annually publish on the electronic regulatory platform an opinion on the compliance of the cost accounting system of such operator/supplier with the requirements.

Regulation of wholesale prices

Regulation of wholesale electronic communications services is defined in Article 91 of the Law. The NRA establishes uniform wholesale settlement fees:

- 1) for national traffic termination services for mobile voice communications;
- 2) for national traffic termination services for fixed voice communications.

These billing rates are mandatory for all providers of voice services for mobile and/or fixed electronic communications, respectively.

The NCEC establishes or modifies the billing rates calculated in accordance with the procedure it establishes, taking into account the following requirements:

- 1) the rates shall be set in accordance with the results of the calculation of the cost of relevant services according to the efficient operator model (LRIC);
- 2) the terminal rates shall only take into account the difference between the costs calculated according to the efficient operator's model, which provides for the provision of all traffic transmission services, and the costs calculated according to the same model, provided that no termination services are provided to other providers;
- 3) the traffic termination rate is set for fixed providers regardless of market share, network size and actual costs.

However, the model of the efficient operator used to calculate the cost of the estimated charges is created and owned by the NCEC. The NCEC may engage other economic entities for the establishment and use of the efficient operator model, provided that they are not suppliers. The NCEC establishes billing charges for traffic termination based on the cost of providing these services, in order to create an efficient operator model.

Wholesale interconnection prices are subject to a contract between operators. The NCEC shall approve the procedure for determining the organisational, technical and economic conditions of interconnection.

23. Please provide information on the number of internet users, based on the different (access) technologies.

Number of fixed Internet access lines (points) connected by technology as of 31.12.2021, thousand units*

coaxial cable (DOCSIS)	276,89
fibre optic cable (FTTx)	4087,60

fibre optic cable (xPON)	2295,16
fixed broadband radio access technology	90,76
xDSL technology	566,14
over satellite	3,47
other technologies	246,27
Total	7566,29

** According to annual reports received as of 20.03.2022 (only 73% of the total number of business entities submitted reports for 2021 in accordance with the established procedure).*

Number of active mobile telecommunication network identification cards (active SIM (USIM, R-UIM)) connected to the Internet as of 31.12.2021, thousand units*.

4G (LTE, LTE advanced)	25 573,92
3G (UMTS/HSPA/HSPA+)	7 488,47
3G (CDMA2000 EV-DO/DV)	122,11
2G (GSM/GPRS/EDGE/CDMA 2000 1X)	4 686,11
Overall	37 870,61

** Based on annual accounts received as of 20.03.2022*

24. Describe the situation as regards infrastructure access to cables and ducts, as well as the extent of facility sharing.

General regulation of access to physical infrastructure (such as pipes, cable ducts, collectors, hatches, towers, engineering structures) for the purpose of deployment of telecommunications networks is provided by the Law of Ukraine “On Access to Facilities of Construction, Transport, Electric Power Industry for the Purpose of Development of Telecommunication Networks”. The installation requirements are provided under various construction regulations and rules on provision of access to infrastructure depending on type of used passive infrastructure as approved by the Cabinet of Ministers of Ukraine (including, Rules for providing access to the infrastructure of the electric power facility, Rules for providing access to the infrastructure of the telecommunication cable ducts, Rules for providing access to the infrastructure of the transport facility etc.). The Law of Ukraine “On Electronic Communications” provides for the obligation of electronic communications operators that

own physical infrastructure to meet requests from other operators to provide access to their physical infrastructure to deploy the broadband network of such other operators.

The requirements for access to electronic switching networks and their infrastructure, including facilities, cable conduits and masts are defined in Article 34 of the Law of Ukraine "On Electronic Communications" (hereinafter – the Law).

The NCEC establishes rules for granting and obtaining access to cable ducts and rules for their use, taking into account, in particular, the need to ensure the principle of access non-discrimination for operators, providers of electronic communications networks, which are micro, small and medium enterprises (SME) and with limited geographical coverage of electronic communications services.

The NCEC establishes tariff caps for the lease of cable ducts, which include the provision of services by operators, providers of electronic communications networks to the customer for the development and issuance of technical specifications, coordination of working design, technical supervision, space reservation, provision of space in the cable duct and its use.

Currently, the new Rules for Granting and Obtaining Access to Cable Channels and Cable Channels Use Rules, as well as Tariff Caps for Granting Access to Cable Channels provided by the Law are being drafted.

Access and use of the infrastructure of electronic communications channels is regulated on the basis of contracts concluded between electronic communications operators, in accordance with the Commercial Code of Ukraine. Consequently, while regulations on implementation of the Law are being elaborated, the access to the electronic communication networks and the use of infrastructure of communication channels is regulated by the economic contracts between the economic entities.

At the same time, the Law determines that:

1. The provider of electronic communications networks and/or services (operator) is obliged, in the way established by NCEC, to comply with the justified written requests of other operators to grant access to physical infrastructure elements of his electronic communications network in order to deploy elements of high-speed networks. Access to physical infrastructure of electronic communications must be provided on fair and reasonable terms and conditions, including access fees.

2. The NCEC shall approve the procedure for granting access to the physical infrastructure of electronic communications for the deployment of high-speed networks.

3. Access shall include the access to:

1) elements of electronic communications network and related facilities and services, which may include connection of equipment by means of fixed or mobile communications, including access to local loop and equipment and services necessary to provide services via local loop;

2) physical infrastructure, including structures, cable conduits and masts;

3) relevant software systems, including operating support systems;

4) digital information systems and databases for pre-ordering, provisioning, ordering, sending maintenance and repair requests and billing;

5) numbering resource that provides identification of networks or systems giving equivalent functionality;

6) fixed and mobile networks, including for roaming;

- 7) systems of conditional access to digital television and radio broadcasting services;
- 8) access to virtual network services.

Co-location and use of elements of electronic communications network infrastructure is defined in Article 26 of the Law.

The operator has the right to propose to other operators, providers of electronic communications networks, access to the physical infrastructure of its electronic communications network, jointly locating and/or using the elements of network and infrastructure in order to deploy elements of their electronic communications networks.

Technical, organisational and financial conditions for access and co-location and use of network elements and/or physical infrastructure by operators for the purpose of deployment of electronic communications networks are determined in accordance with legislation on a contractual basis.

If the operator, in accordance with the law, has obtained the right to install physical infrastructure of electronic communications networks, using public, communal or private property, the NCEC, with the aim of protecting the natural environment, public health, public safety or meeting territorial planning objectives, can take decisions in accordance with the approved procedure and after consultation:

- 1) on commitments to co-location and/or share of the elements of electronic communications network and physical infrastructure established using such rights;
- 2) on measures to coordinate works related to the deployment of electronic communications network elements in the respective territories.

The mentioned decisions by the NCEC in accordance with the legislation are based on a request of the operator, electronic communications network provider concerned, after consultations and taking into account the principles of objectivity, transparency, non-discrimination and proportionality.

In this context, the NCEC shall, in accordance with the procedure established by it:

- 1) coordinate the process of co-location and use of network elements and related facilities by operators, providers of electronic communications networks;
- 2) ensuring the establishment and operation, using the electronic regulatory platform, of a single information point for the co-location and use of elements of electronic communications networks and their physical infrastructure;
- 3) establishing the methodology for cost allocation related to the joint use of facilities and coordination of works on the deployment of electronic communications networks.

II. INFORMATION SOCIETY SERVICES

A. Policy

25. Please describe the institutional framework of the sector, with reference to the relevant government bodies, the role of the parliament and possible other organisations or institutions. Is there any policy initiative similar to the strategy ‘Shaping Europe’s Digital Future’ or the Digital Compass? If so, please provide a translated copy.

In order to facilitate digital change and coordinate better efforts between institutions, the Ministry of Digital Transformation was established in autumn of 2019. The Ministry of Digital Transformation of Ukraine is the central body of executive power that ensures the formation and implementation of state policy, in particular in the spheres of digitalization, digital development, digital economy, digital innovation and technology, e-government and e-democracy, information society development, informatization; in the sphere of electronic document management; in the sphere of digital skills development and digital rights of citizens; in the sphere of open data, development of national electronic information resources and interoperability, development of broadband Internet and telecommunications infrastructure, e-commerce and business; in the sphere of electronic and administrative services; in the sphere of electronic trust services and electronic identification; in the sphere of IT industry development.

Vice-prime minister for Digital Transformation was appointed to coordinate the efforts and actions of governmental institutions.

The Ministry of Digital Transformation coordinates the work of CDTO (Chief digital transformation officer) – deputy heads in state authorities for digital transformation. CDTO at the level of local self-government is the deputy head of local self-government responsible for digital transformation.

DTPM (Digital Transformation Program Manager) — project managers of the Ministry of Digital Transformation responsible for the implementation of specific digital transformation projects in the authorities.

The MDTU also has a Public Council. The establishment and operation of the Public Council is determined by the Resolution of the Cabinet of Ministers of November 3, 2010 № 996 "On ensuring public participation in the formation and implementation of public policy."

Regulations on the Public Council at the Ministry and its composition were approved by the order of the Ministry of June 7, 2021 №8H.

The MDTU also uses the mechanism of public consultations that secure the transparency of by-laws adoption processes.

The procedure of public consultations for state authorities is described in details in question 9 of this Chapter.

State Commercial Enterprise "DIIA" (hereinafter - SE "DIIA") is based on state property and belongs to the Ministry of Digital Transformation of Ukraine.

SE "DIIA" carries out economic activities in the fields of creation, development, support, administration, operation, maintenance, modernization, improvement and technical support of electronic information resources (registers, automated information systems, databases), e-government development, e-commerce and business, information society, digital skills, provision of electronic services, electronic trust services and electronic identification services, provision of administrative services, technical and technological support for the performance of the functions of the central certification body.

The National Commission for the State Regulation of Electronic Communications, Radio Frequency Spectrum and the Provision of Postal Services (NCEC) is a central body of executive power with a special status that is formed by the Cabinet of Ministers of Ukraine. NCEC carries out state regulation, state supervision (control) in order to achieve a balance of interests of users, state,

economic entities carrying out activities in the field of electronic communications, radio frequency spectrum and postal services, ensures the security of electronic communications, development of competition, integration of Ukrainian markets in these areas into the markets of the European Union.

The Administration of the State Service of Special Communications and Information Protection of Ukraine (SSSCIP) – a central body of executive power with a special status, the activity of which is directed and coordinated by the Cabinet of Ministers of Ukraine and ensures formation and implementation of the state policy in the fields of organisation of special communication, information protection, cyber protection of telecommunications and use of radio-frequency resource of Ukraine.

Cybercenter UA30 is part of the State Service of Special Communications and Information Protection of Ukraine. It is the newest state centre for responding to cyber incidents, acquiring skills and knowledge in the field of cybersecurity. It also includes an updated training platform with a unique technology for testing real cyber attack scenarios in the learning environment. Among the main priorities is the protection of critical information infrastructure. These are state registers, digital services, state information resources and information systems of critical infrastructure facilities.

There is also a Cybersecurity Center of the National Bank of Ukraine, which was established in 2017 to combine and coordinate efforts in the field of cybersecurity of the banking and financial sectors of Ukraine. Since 2018, the Cybersecurity Center of the National Bank of Ukraine has had a cyber incident response team in the banking system (CSIRT-NBU).

One of the Committees of the Verkhovna Rada of Ukraine is the Committee on Digital Transformation. Subjects of the Committee on Digital Transformation:

- legislative principles of digitalization and digital society in Ukraine;
- National and state information programs;
- EU Digital Single Market, EU4Digital programs, and other programs of digital cooperation;
- innovations in the field of digital entrepreneurship, development of the startup ecosystem;
- research centres in the field of digital technologies;
- digital industry and telecommunications;
- e-government and public e-services;
- e-democracy;
- electronic trust services and digital identification;
- state information and analytical systems, electronic document management;
- state information resources, electronic registers, and databases;
- e-commerce (e-business);
- virtual assets, blockchain, and tokenization;
- smart infrastructure (cities, communities, etc.);
- development of the field of "open data";
- radio-frequency resource;
- development of the orbital economy;

- legal principles of administration, functioning, and use of the Internet in Ukraine;
- cybersecurity and cyberdefense, including in the field of critical infrastructure;
- technical and cryptographic protection of information;
- development of digital competencies, digital rights.

Ukraine's policy on digital transformation in economy and society has been mandated in the following core legislation:

The Law of Ukraine On Basic Principles of Information Society Development (537-V of 09 January 2007);

The Strategy of Development Information Society in Ukraine (Cabinet of Ministers Decree #386-p on 15 May 2013);

The priority areas and tasks (projects) of digital transformation for the period up to 2023 (the Order of the Cabinet of Ministers of Ukraine of February 17, 2021 № 365-r Some issues of digital transformation); *The Concept Paper and the Action Plan on the Development of Electronic Democracy in Ukraine* (Cabinet of Ministers Decree #797-p on 8 November 2017);

The Concept Paper and the Action Plan on the Development of Digital Economy and Society of Ukraine for 2018-2020 (Cabinet of Ministers Decree #67-p on 17 January 2018);

Strategy on integration of Ukraine into the European Union Digital Single Market (Roadmap) has been updated taking into account the recommendations of the European Commission, updated Appendix 17-3 to the Association Agreement and provides for the introduction of the latest digital norms and standards of the EU.

Resolution of the Cabinet of Ministers of Ukraine of 03 March 2021 № 179 approved the *National Economic Strategy for the period up to 2030*. The Strategy is the basis for the development by ministries and other central executive bodies of action plans, program and strategic documents drafts, laws drafts, and other legislation. Program and strategic documents of the Cabinet of Ministers of Ukraine, activity plans of ministries and other central executive bodies are brought in line with the Strategy (if necessary) and are carried out taking into account the priority of achieving the strategic goals set by the Strategy.

One of the directions of realisation of the Strategy is the digital economy. Strategic goals in the directions include acceleration of economic activity; transformation of resource sectors of the economy into highly productive, intelligent and competitive; transformation of spheres of life into effective, modern and comfortable; creating new opportunities for the human capital realisation, development of innovative, creative and digital industries and businesses.

In order to determine the priority directions and main tasks of the development of artificial intelligence technologies to meet the rights and legitimate interests of individuals and legal entities, the construction of competitive national economy, improvement of public administration, the Cabinet of Ministers of Ukraine approved the Concept of development of Artificial Intelligence in Ukraine (Order of the Cabinet of Ministers of Ukraine dated 02 December 2020 № 1556-r) and approved a Plan of Action for the implementation the relevant Concept (Order of the Cabinet of Ministers of Ukraine of 12 May 2021 № 438-r).

In order to develop broadband Internet access in Ukraine and ensure the implementation of the Law of Ukraine "On Electronic Communications" has been approved the Action Plan For the development of broadband Internet access for 2021-2022 (Order of the Cabinet of Ministers of Ukraine of 08 September 2021 № 1069-r).

In order to determine the priority directions and main tasks of the development of digital skills and digital competencies, increase the level of population digital literacy, in particular working persons, the elderly, low-income families, people with disabilities, other vulnerable groups, in the conditions of digital economy and digital society development has been approved the Concept of Development of Digital Competences and approval of the Plan of Action for its implementation (Order of the Cabinet of Ministers of Ukraine of 03 March 2021 № 167-r).

In order to ensure state security, the Decree of the President of Ukraine № 56/2022 of 16 February 16, 2022, put into effect the decision of the National Security and Defense Council of Ukraine of 30 December 2021 "On the Strategy for ensuring State Security" and approved the Strategy for ensuring State Security. One of the tasks of the state policy in the sphere of ensuring state security is completion, further development, and strengthening of the national cyber security system capacity, optimization of coordination of its subjects in order to effectively combat cyber threats in the modern security environment.

26. The Commission adopted in 2020 a Communication on a European Strategy for data (COM(2020) 66 final). Is there any policy initiative or already existing legal framework supporting the strategic vision for the creation of a genuine single market for data?

Ukraine has developed a Strategy for State Policy for the Development of Open Data.

The strategy envisages the digital transformation of data-related processes and is based on the principles of "open-by design and open-by-default", as defined by Directive 2003/98 of 17 November 2003 on the re-use of public sector information as amended by the Directive. EU 2013/37 / EU of 26 June 2013 and Directive 2019/1024 of the European Parliament and of the Council of 20 June 2019 on open data and the re-use of public sector information.

The purpose of the Strategy is to create conditions for the disclosure of complete quality public information in the form of open data and its use and re-use for:

- decision-making process by citizens, businesses and civil servants based on complete and reliable information;
- increasing the transparency and accountability of government bodies, ensuring confidence in their decisions and fighting corruption;
- creation of innovative products based on open data.

The main goals of the strategy are:

- implementation of open-by-default and open-by-design principles;
- implementation of the principle according to which public information is disclosed exclusively in open machine-readable formats according to approved standards;
- disclosure of dynamic data at the time of its creation with all the elements
- it's necessary for their re-use;

- promoting the use and re-use of open data;
- accelerating the transition to a low-carbon and circular economy using open data.

An action plan (road map until 2025) has been developed to implement the provisions of the strategy.

27. The Commission proposal for a Data Governance Act (COM(2020) 767 final) includes a number of legislative measures for supporting decisions on what data can be used in which situations, for facilitating cross-border data use, and for prioritising interoperability requirements and standards within and across sectors. Is there any regulatory framework planned or already in force addressing these issues?

Basic principle of legislation on access to open data:

All public information is available, except as required by law;
All public information is provided in the form of open data by default.

Ukraine has developed a Strategy for State Policy for the Development of Open Data

The purpose of the Strategy is to create conditions for the disclosure of complete quality public information in the form of open data and its use and re-use for:

- decision-making process by citizens, businesses and civil servants based on complete and reliable information;
- increasing the transparency and accountability of government bodies, ensuring confidence in their decisions and fighting corruption;
- creation of innovative products based on open data.

Scope of the legislation on open data on the content of data:

The scope of open data legislation extends to information held by any business entity:

- on the state of the environment;
- on the quality of food and household items;
- about accidents, catastrophes, dangerous natural phenomena and other emergencies that have occurred or may occur and threaten the health and safety of citizens;
- other information of public interest (is socially necessary information).

The scope of the Law of Ukraine "On Access to Public Information" № 2939-VI on 13 January 2011 on Supply of Goods/Services/Use of Budget Funds, etc. extends to legal entities financed from the state budget and local budget, as well as persons exercising delegated powers of subjects of power in accordance with law or contract (Official translation of the Law of Ukraine "On Access to Public Information" into English is available using the link: <https://zakon.rada.gov.ua/laws/show/en/2939-17#Text>).

Method of providing information:

There are three mandatory forms of providing information in the form of open data:

- on request,
- publication on the Unified State Open Data Portal;
- on the websites of administrators.

Resolution of the Cabinet of Ministers of Ukraine №835 on 21 October 2015 provides for access through the API (application programming interface), and establishes the principles of such access.

This issue is also partially regulated by the Law of Ukraine on Public Electronic Registers. Thus, Article 18 of the law provides for the following requirements for register information

1. Information on the objects of registers shall be created by the creators in accordance with the types and sources of register data determined by this Law, law or other act of legislation, according to which the relevant registers have been created.

2. Information on material objects of the register and their properties during their registration, data entry (changes to them) in the relevant register must correspond to the existing metric, physical, biological and other natural characteristics (properties) of the relevant objects and their geospatial provisions determined with precision in accordance with applicable standards, norms, rules and technical regulations.

Changing the requirements of standards, norms, rules and technical regulations on indicators of accuracy or methods of determining it, changing methods, technologies and systems of geospatial positioning is not grounds for recognizing the registry information erroneous if at the time of its entry it met current standards, norms, rules and technical regulations.

It is prohibited to enter in the register information about material objects and their characteristics (properties) that do not meet the requirements specified in the first paragraph of this part.

3. Storage of register information shall be provided by the holder and / or administrator of the relevant register permanently (unless otherwise provided by law) with mandatory use of backup and hash logging tools and technologies in accordance with the procedure established by the Cabinet of Ministers of Ukraine. information and communication systems.

In addition, Article 23 regulates the use of classifiers, directories, technical specifications, etc. in the creation (modification) of register data.

1. In order to ensure unified identification of register objects and interoperability of register data in their creation and implementation of relevant registration actions, it is mandatory to use classifiers, directories, technical specifications, etc., the list and procedure of which are determined in the registers.

2. The maintenance of the classifiers, directories, technical specifications, etc. specified in part one of this Article in other registers, as well as their simultaneous maintenance or modification in several registers is prohibited, and the relevant information created on the basis of such data cannot be considered official.

The Law of Ukraine on National Geospatial Data Infrastructure defines the legal and organisational basis for the creation, operation and development of national geospatial data infrastructure aimed at ensuring effective decision-making by public authorities and local governments, meeting the needs of society in all types of geographical information, integration into global and European geospatial data infrastructure.

Order of the Cabinet of Ministers of Ukraine of December 28, 2020 № 1671-r “On the approval of the Concept of e-health development” and the order of the Cabinet of Ministers of Ukraine of September 29, 2021 № 1175-r “On approval of the action plan for the implementation of the Concept of e-health development”.

The Cabinet of Ministers of Ukraine approved the Concept of development of Artificial Intelligence in Ukraine (Order of the Cabinet of Ministers of Ukraine dated 02 December 2020 № 1556-r) and approved a Plan of Action for the implementation the relevant Concept (Order of the Cabinet of Ministers of Ukraine of 12 May 2021 № 438-r).

The Ministry of Education and Science has developed a draft of the National Action Plan for the implementation of the principles of open science until 2030, which will describe the principles of FAIR data. The draft act was developed to fulfill the task of "Implementing the state policy of open science", approved by the Cabinet of Ministers of Ukraine dated February 26, 2021 № 149 "On approval of the action plan for the implementation of the Open Government Partnership Initiative."

The Concept of introduction of electronic accounting and presentation of cultural heritage and cultural values, whose main purpose is the formation and implementation of new approaches in the system of accounting of cultural heritage and cultural property based on electronic management, approved by the Order of the Ministry of Culture of Ukraine from 07 November 2017 № 1161.

28. Do you use performance indicators to monitor progress on digitalization in the public and private sectors?

Cabinet of Ministers' Action Plan identifies key results and indicators that should be achieved by 2025, in particular:

- at least 200 government services are available online;
- 60 percent of Ukrainians use online services;
- 90 percent of Ukrainians who used public services in administrative service centres or online, are satisfied with its quality;
- the number of established administrative service centres (territorial units, remote jobs of administrators, mobile administrative service centres) increased by 30 percent;
- an increase in the number of services provided in administrative service centres by 35 percent;
- 95 percent of Ukrainian citizens live in settlements that have mobile broadband internet coverage at a speed of at least 2 Mbps;
- 95 percent of rural households have the technical capability for connecting to fixed broadband access to the Internet with a speed of at least 100 Mbps;
- 75 percent of households use fixed broadband Internet access at a speed of at least 30 Mbps;
- 95 percent of social infrastructure institutions and local authorities self-connected to broadband access to the Internet with a speed of at least 100 Mbps;

- 10 percent of Ukraine's gross domestic product comes from ICT;
- 6 million Ukrainians have passed the digital literacy program.

Annually, no later than April 15 of the current year, the Cabinet of Ministers of Ukraine submits to the Verkhovna Rada of Ukraine a report on the progress and results of the Cabinet of Ministers' Action Plan for the previous year.

The Cabinet of Ministers plans its work on the basis and implementation of the Cabinet of Ministers' Action Plan, laws of Ukraine, decrees of the President of Ukraine and resolutions of the Verkhovna Rada of Ukraine adopted in accordance with the Constitution and laws of Ukraine. For instance, the Cabinet of Ministers develops and approves the medium-term action plan of the Government (for a period of three years) and the plan of priority actions of the Government (for a period of up to one year).

The status of the Government's medium-term action plan and the Government's priority action plan is monitored by the Secretariat of the Cabinet of Ministers together with the ministries and other central executive bodies that are the executors of the relevant tasks and measures.

With the aim of comprehensive development of the digital potential, determination of its dynamics and tracking its own progress in comparison with the EU's leading digital economies, Ukraine has initiated an inclusion into the Digital Economy and Society Index (DESI). The Ministry received the report²⁵ on Digital Economy and Society measurement enabling in Ukraine prepared by the Association4U project, which provides specific recommendations for Ukraine. The MDTU, NCEC, State Statistics Service, Ministry of Economy and the project EU4DigitalUA (FIIAPP) "EU Support for e-Government and Digital Economy in Ukraine" established cooperation on building the DESI ecosystem in Ukraine in order to establish a regular collection of all necessary data in the field of digital development at the national level. The development of the Roadmap for the construction of the DESI ecosystem in Ukraine is currently underway.

29. Is there a broadband strategy and if so, how is it coordinated in Ukraine?

On 01 January 2022, the Law of Ukraine "On Electronic Communication" was entered into force, according to which the Cabinet of Ministers of Ukraine must approve the strategy for the development of electronic communications and the national plan for the development of electronic broadband communication networks.

There is no broadband strategy in Ukraine currently. However, the Ministry, with the assistance of the EU Support for Broadband Ukraine Project (Stantec), is developing the National Broadband Strategy of Ukraine (hereinafter referred as "NBS") is the strategic policy document containing the analysis of the status of fixed and mobile broadband in Ukraine, the challenges and the objectives for national broadband deployment, regulatory, financial, and technical directions, and the implementation and monitoring of broadband roll out. Fiber-optic and 5G are the key words in the NBS.

In 2021, the Ministry developed an Action Plan for the Development of Broadband Internet Access for 2021-2022, approved by Decree of the Cabinet of Ministers of Ukraine dated 08

²⁵ <https://drive.google.com/drive/folders/1TDPzrTJUKlaQXP6YUx0ADyLaxvx1nnIU?usp=sharing>

September 2021 No. 1069-p in order to develop broadband Internet access in Ukraine and ensure the implementation of the Law of Ukraine "On Electronic Communications".

The plan's main objectives are to provide access to the Internet for residents of settlements where it is absent. The regions will be able to connect settlements (primarily villages) and social institutions to high-speed Internet, receive priority public services in electronic form, introduce open data by regional authorities, and increase the level of digital literacy of the regional population.

To implement the action plan, amendments to the regulatory and legal acts that simplify access to the infrastructure were developed.

30. What body is in charge of the information society policies, including its implementation?

The Ministry of Digital Transformation of Ukraine is the main body in the system of central executive bodies, which ensures the formation and implementation of state policy, in particular, in the field of information society.

31. What is the budget allocated to the policy, what is the administrative capacity and what are the implementation mechanisms?

Based on the Law on the State Budget of Ukraine for 2022 (as of 31 December 2021) to the Ministry of Digital Transformation of Ukraine 4,287,116,500.0 UAH (EUR 138,651,800.0) are allocated from the budget.

According to the distribution of expenditures of the Ministry (as of 31 December 2021) 4,037,798,600.0 UAH (EUR 130,558,500.0) are allocated to the Information Society policy (e-government, development of information technologies, national informatization program, development of a network of administrative service centres, development of the Internet in rural areas). After the Russian invasion on February 24, 2022, budget programs underwent changes. As was already mentioned, the Ministry of digital transformation of Ukraine ensures the formation and implementation of state policy of information society. Therefore, the vast majority of employees of the Ministry (about 200 people) are involved in the formation and implementation of information society policy.

32. What is your digital strategy concerning cultural heritage (CH)? What rules or measures do you have concerning its digital preservation?

Priority areas and objectives (projects) of digital transformation for the period up to 2023, approved by the Cabinet of Ministers of Ukraine from 17 February 2021 № 365-r, developed in particular taking into account the results of the implementation of the Concept of introduction of electronic accounting and presentation of cultural heritage and cultural values, whose main purpose is the formation and implementation of new approaches in the system of accounting of cultural heritage and cultural property based on electronic management, approved by the Order of the Ministry of Culture of Ukraine from 07 November 2017 № 1161.

This document regulates the creation of appropriate registers of cultural heritage and cultural property in order to implement the tasks of accounting and protection of cultural heritage, directly

bringing it and cultural property to specific consumers of cultural services using information technology.

The main principles for the implementation of the digital strategy in relation to cultural heritage are:

1. Creation of the national data infrastructure (hereinafter referred to as ND) based on the corresponding electronic registers, including:

organisational structure (data generation and storage entities, data administrators and users, regulatory and supervisory bodies, scientific and methodological support centres (institutions), etc.)

rules and standards for data creation, storage, publication and use and data exchange (formalised ontologies, metadata, thesauri, data exchange formats and protocols);

hardware and software;

on the principles of:

relevance, reliability, completeness and integrity of data;

accessibility of open data;

interoperability (in particular technical and semantic);

technological neutrality, open formats and protocols;

regulation of rules and standards for creation, storage, publication, use and sharing of data.

2. Multilevel electronic data exchange, including:

The generation of data on cultural heritage and cultural property in electronic form by the entities that generate it, in particular in the context of the implementation of electronic inventories of cultural heritage and cultural property;

Generation of relevant electronic registers by aggregating data in electronic form from entities that generate and maintain electronic inventories of cultural heritage and cultural property;

Public access to data with no publication restrictions.

3. Basic standards

The work with data in the context of creation and functioning of ID is provided on the basis of Semantic Web and Linked Data.

The basic ontology for describing and recording cultural heritage (immovable cultural heritage objects, cultural property, intangible cultural heritage elements) is CIDOC-CRM (www.cidoc-crm.org, ISO 21127:2014), which is the basis for semantic interoperability in the field of museums and cultural heritage protection, as well as in related fields.

The basic national metadata standard for accounting of museum objects and data exchange is codeUA.

Formalization, unification and automation of processes in the sphere of museums and protection of cultural heritage are carried out in accordance with the standards of institutes and risk management DSTU (National Standard of Ukraine) ISO 9001:2009, DSTU ISO 31000:2014 and other standards.

4. Partnership and equality of conditions of participants of unified electronic data exchange, which envisages organisation of effective cooperation of entities of different levels, forms of ownership and subordination: public authorities and local governments, research institutions, analytical centres, museum and monument preservation institutions, professional associations and networks, companies producing (suppliers) of technical, sub-software, software and related services.

The main measures to implement the digital cultural heritage strategy are:

1. Formation of a legal and regulatory framework including:

definition of the basic principles of electronic registration and presentation of the objects of cultural heritage and cultural property, procedures of functioning of the registers of cultural heritage and cultural property, their administration, powers of public authorities to define standards, rules and procedures related to their creation and functioning;

formalisation and unification of processes of accounting, as well as modernisation of management of cultural heritage objects according to DSTU ISO 9001:2009, DSTU ISO 31000:2014 and other standards, taking into account recommendations of ICOM CIDOC MPI WG, SPECTRUM;

development of metadata standards for the description and accounting of cultural heritage objects based on the formalised ontology ISO 21127:2014, as well as taking into account the recommendations of relevant international metadata standards (Carare, MIDAS) and the tasks and needs relevant to Ukraine;

definition of procedures for electronic interaction between entities of different levels in the areas of cultural heritage, in particular, protection of cultural heritage, museum business, export, import and return of cultural property;

automation of the system of control over the transfer of cultural property across the State frontier of Ukraine

definition of the procedure for electronic registration of lost cultural property and exchange of information in electronic format with other countries;

The formation of a legal and regulatory framework through amendments to laws and by-laws as well as the drafting of new acts.

2. Scientific and organisational and methodological support

Creation and maintenance of the national infrastructure for the implementation of international standards, elaboration and development of national standards and methodological recommendations

providing regular monitoring, analysis of the condition and prospects of development of the national data infrastructure in the sphere of protection of the cultural heritage, museum business, export, import and return of cultural values

Ensuring streamlining and systematisation of the terminological base, creation of unified thesauri and authority files and their synchronisation with relevant international equivalents (in particular, by Getty Foundation Thesauruses, www.getty.edu)

ensuring the formation of a set of technical standards for digitization of cultural heritage objects of various types and types and cultural property, taking into account the provisions and recommendations of relevant foreign standards (in particular, Technical Guidelines for Digitizing Cultural Heritage Materials, Creation of Raster Image Files, FADGI, 2016, etc.);

The formation of an information infrastructure for the national data infrastructure.

3. Software and hardware support

Defining the requirements for the registers of the Cultural Information Management and Information Policy Information System

development of technical tasks for creation of registers of information complex of management in the field of culture and information policy, in particular for aggregation and provision of access to data on movable, immovable and intangible objects of cultural heritage, control over the movement of cultural values across the state border of Ukraine, implementation of related services, etc;

introduction of registers of the information complex of management in the field of culture and information policy of ensuring interoperability of their data;

filling the registers of the information complex of management in the field of culture and information policy ensuring;

development and implementation of algorithms and schemes of data transformation in accordance with the requirements of relevant international standards in order to ensure effective integration with international data banks, cooperation with foreign institutions, participation in international research programmes;

development and implementation of a program for digitising data on cultural heritage objects and cultural property in order to optimise their registration processes in electronic form.

4. Staffing

Organisation and implementation on a regular basis of capacity building programmes for specialised professionals (museum workers, monuments, restorers, etc.) on the issues of electronic registration of cultural heritage and cultural values, digitization, application of metadata standards, unified data exchange, etc;

promoting the inclusion of relevant thematic courses in the training programmes of specialists in the relevant specialisation in higher education institutions;

Encouraging the development of thematic online resources with the presentation of relevant teaching, reference and methodological materials.

5. Data presentation

providing access to open data in the areas of cultural heritage protection, museums, export, import and return of cultural property

stimulating the development of information platforms and services for the publication and presentation of data, taking into account the specific needs of different target audiences;

encouraging the inclusion of data on cultural heritage objects and cultural property in relevant international databases, in particular Europeana (www.europeana.eu);

Ensuring the exchange of information between national information systems in the areas of cultural heritage protection, museums, export, import and return of cultural property and the INTERPOL stolen works of art database, the UNESCO database and the WCO ARCHEO platform, as well as the UNODC portal SHERLOC .

The Law of Ukraine "On National Geospatial Data Infrastructure" adopted on 13 April 2020, the World Heritage sites, their territories and buffer zones, cultural heritage sites, their territories and protection zones, historical areas of settlements, historical and cultural reserves, historical and cultural conservation areas, protected archaeological areas, museums, libraries, areas with preserved e

A set of measures is currently being developed and implemented, the main objectives of which are to

- Modernisation of processes for the management and recording of cultural heritage and cultural property, and the creation of conditions for the development of a unified electronic document flow and data exchange;

- Introduction of unified requirements and rules of organisation of electronic registration of the objects of cultural heritage and cultural property;

- Introduction of standards for electronic registration of cultural heritage and cultural property and exchange of information;

- Establishment of sectoral information systems and a unified electronic information resource of cultural heritage and cultural property as elements of a multilevel system of generation, circulation and aggregation of digital data

- introduction of a mechanism for effective control over the movement of cultural property across the State border of Ukraine;

- development of public-private partnership in the creation and processing of information on objects of cultural heritage and cultural property on the basis of openness, equality, transparency, virtue

- creation of conditions for wide public access to open data in the areas of protection of cultural heritage, museum business, export, import and return of cultural property.

The implementation of the relevant international standards is an important focus in the implementation of our strategic plan. In particular, in cooperation with professional public associations, ISO 21127:2014 was harmonised and approved as national state standards. with other vocabularies", metadata schemes for digital formalised unified recording and description of cultural heritage objects, related resources, etc. are being developed. National specialised electronic thesauri for the description of heritage objects and related thematic resources are created. Relevant standards,

metadata schemas, normative documents and recommendations form the basis for the development of prototype software platforms to ensure the proper functioning of electronic registers of cultural heritage objects (movable, immovable and intangible) in the future.

33. What kind (number, type, formats, value, volumes, licensing available) of CH objects and monuments have you digitised? Do you have other CH datasets available? What would the barriers be to share and reuse such digitised objects and datasets in Europeana and the future Data Space for Cultural Heritage?

In recent years, digitisation of cultural heritage objects has been intensified in Ukraine. As part of the implementation of Priority areas and tasks (projects) of digital transformation for the period until 2023, approved by Cabinet of Ministers Decree №365-p of 17 February 2021, it is envisaged to digitalise museum infrastructure, create registers of cultural and intangible heritage, folk arts and crafts of the Museum Fund of Ukraine, create a single database of library records, the Ukrainian Digital Library.

Also digitization of cultural heritage is defined as one of the important priorities of the Ukrainian Cultural Fund, established in 2017 to ensure transparent competitive financing of relevant projects in culture and cultural creative industries, to provide favourable conditions for the development of intellectual and spiritual potential of individuals and society. access of citizens to national cultural patrimony, support of cultural diversity and integration of Ukrainian culture into the world cultural space. Prioritisation of digitalization of cultural heritage objects is foreseen in the Ukrainian digitalization strategy adopted by the order of the Cabinet of Ministers of Ukraine of February 17, 2021 № 365-r “Some issues of digital transformation”.

At present the main attention is paid to the formation of an electronic data set on immovable heritage objects, which already counts about 120 thousand records. Work has begun on refining the geospatial data of objects (in cooperation with Geogeokadastr), their photo fixation, creating 3 models of monuments using photogrammetry methods, etc.

Another urgent task on the agenda is to intensify the digitization of objects in the state part of the Museum Fund of Ukraine, which has more than 12 million items. According to tentative estimates, about 10 percent of items in the collections of Ukrainian museums have been digitised.

A digital National Inventory of Intangible Cultural Heritage Elements has been created, which includes information on customs, forms of display and expression, knowledge, skills, tracts passed down from generation to generation, constantly reproduced by communities and groups under the influence of their experience, environment, interaction with nature, history and form in them a sense of identity and continuity, thus promoting respect for cultural diversity and human creativity. The National Inventory of Intangible Cultural Heritage includes 26 elements.

The Ukrainian Digital Library makes it possible for Ukrainians and citizens of other countries to read modern books on their smartphones - comfortably, legally and wherever they want. And for publishers, it is one channel for distributing their titles. Ukrainian Digital Library includes more than 80 thousand works by 10,000 Ukrainian writers and poets, including translations into other languages. The Ukrainian Digital Library software provides storage in international formats of resource description and standards for digital libraries, in particular, defined and supported by the United States Library of Congress (structural metadata METS/ALTO, descriptive metadata MODS or Dublin Core).

The register of folk art and crafts masters will ensure registration of folk art and craftsmen mastering authentic techniques, automate marking of their products, create conditions for providing targeted assistance to folk art and crafts masters according to their abilities (legal form, type of business, experience). The register became one of the tools for the formation of a national brand of national crafts and its popularisation abroad. Masters get an opportunity to put a mark on their products, which increases the value of the product and demonstrates its authenticity. In addition, artisans in the Register are visible to the State and can therefore claim some form of support (scholarships, fees for participation in fairs, provision of workshop facilities, etc.). Consumers are able to verify the authenticity of purchased items.

Work on digitization of the musical heritage of Ukrainian composers of the XX-XXI centuries was started, which is an important component of Ukrainian culture. Currently, more than 200 thousand musical scores are in hard copy and are inaccessible for modern performers. The objective of this registry introduction is to create a digital library of MusicXML 4.0 (www.musicxml.com) format scores of Ukrainian composers with free access. It will include works by Maksym Berezovsky, Dmytro Bortnyansky, Mykhailo Verikovskiy, Mykhailo Kalachevsky, Philip Kozitsky, Viktor Kosenko, Mykola Lysenko, Stanislav Ludkevych, Volodymyr Sokalsky, Kyrylo Stetsenko and many other prominent Ukrainian composers.

In line with the defined digitalisation strategy for the protection of cultural heritage and cultural property, work continues to build a common data infrastructure to link different thematic datasets based on Semantic Web and Linked Open Data (Linked Data). In order to ensure technical and semantic interoperability the possibility of future integration with international (European) profile resources (in particular, europeana.eu and carare.eu) is defined as a basic ontology for recording and describing cultural heritage objects in Ukraine, the model described by ISO 21127 "Information and Documentation - Identification of International Cultural Informatics". Thesauri and reference resources for description and classification of cultural heritage objects are built according to ISO 25964 "Information and documentation - Thesauri and interoperability with other vocabularies" and SKOS. Within individual subject areas (immovable heritage, museum collections), applied metadata and data exchange schemas derived from the basic ontology of ISO 21127 are implemented, taking into account national characteristics and accounting traditions, while being compatible with their respective international counterparts (e.g. LIDO). The vast majority of library collections in Ukraine are described according to UNIMARC and MARC21 standards. In order to ensure effective preservation and presentation of digital images (photos, drawings, plans, graphic materials, etc.), work continues to promote and implement IIIF specifications.

Within the framework of cultural heritage digitization, the Open Access Policy is being promoted to the professional community and the distribution of digital objects under legal Creative Commons licences, providing significant benefits to the open presentation of created digital cultural heritage and cultural property datasets.

Given the complexity and complexity of the task of digitising cultural heritage, there are some obstacles directly related to insufficient public funding, lack of qualified personnel, and lack of digitisation centres.

B. Basic data on Internet access

34. Please provide Internet access rates and speeds for:

a) schools, both primary and secondary education;

According to the official statistics*, as of September 5, 2021, the state of connection to the Internet of general secondary education institutions was as follows:

Category	Number	%
Public and private general secondary education institutions (total)	13991	100,00%
Public and private general secondary education institutions connected to the Internet	13979	99,91%
General secondary education institutions with an Internet speed of 100 Mbps and more	2672	19,10%
wireless access	2046	14,62%
broadband access	2376	16,98%
using wireless and broadband access at the same time	1750	12,51%
General secondary education institutions with an Internet speed of less than 100 Mbps	11307	80,82%
including less than 30 Mbps	3045	21,76%
FTTx, PON, ETTN fiber optic cable	8580	61,33%
Other connection technologies	5399	38,59%

b) households;

As a result of implementation of the “Internet-subvention” project in 2021, 357 000 households have been covered by fiber optic networks. Thus, as of the beginning of 2022, 95% of Ukrainian households are covered by fiber-optic networks.

c) enterprises, per size (SMEs, medium, large) and sector if possible.

There is only data that 95% SMEs have fiber connection.

*The derivation of an actual percentage rate became possible due to the use of the digitalized process during the implementation of the Internet subvention project. The fundamental issue was determining the need for broadband Internet access based on accurate broadband coverage indicators in Ukraine in rural areas. All coverage indicators, applications for participation in the subvention, its distribution and announced procurements could be tracked in free access with the help of a dashboard. And most importantly, the MDTU prevented the illegal use of funds. After connecting the social

infrastructure objects, each tender winner could receive funds only by providing connection protocols generated from a positive result solely based on speed tests performed in each connected institution with the result required by the Resolution. All these processes are available to each person. The results of the test protocols serve as precise, reliable data for achieving an exact percentage in the framework of the Internet subvention project on the connection of schools and other social infrastructure objects.

According to the contracts concluded during the public procurement, all educational institutions were connected to optical broadband Internet (fiber broadband) with a guaranteed speed of at least 100 Mbps and with the ability to increase the speed to 1 Gbps. Also, it was not allowed to use the wireless solutions on any part of the network during the project implementation.

C. Research

35. What is the specific public policy for promoting and supporting research on Information Society Technologies (ISTs)?

Digital tools of national public policy for promoting and supporting research on Information Society Technologies include:

1. The Science and Business Platform was launched on 01 February 2022 - an online platform for communication and effective interaction between business and the scientific community, enabling businesses to find scientific results, scientific research and scientists - to realise their potential and commercialise the results of scientific research.

2. Ukrainian Tech Ecosystem Overview – is an online platform for business information about IT-companies, people, investors and the whole tech ecosystem of Ukraine in general.

3. For informational support of the participation of Ukrainian organisations in the Horizon 2020 programme, a network of National Contact Points (NCPs) of the programme was created. Its NCPs provided services for educational and research organisations. The creation of a regulatory and legal framework for the continuation of the work of the NCP and the Coordination Centre within the framework of the Horizon Europe programme is planned for 2022.

The state policy of supporting science and business cooperation is implemented through the introduction of financial, institutional, digital, information and communication instruments.

Among the financial instruments are:

1. Competitive selection of scientific, scientific and technical works and projects to meet Ukraine's obligations under the Horizon 2020 framework program.

The competition aims at providing financial support for:

purchase of equipment and materials for research by higher education and research institutions in order to encourage their participation in the program "Horizon Europe" based on competitive selection of scientific and technical projects for the purchase of scientific equipment and materials by the centres of collective use of scientific equipment for scientific research;

implementation by higher education institutions, SMEs and scientific institutions of S&T works and projects based on competitive selection;

financial support of innovative activity of higher education, scientific institutions based on competitive selection of scientific and technical projects aimed at supporting their innovative activity;

providing support to business entities aimed at reimbursing the costs of feasibility study of scientific and technical projects and costs of supporting innovation activities of economic entities based on the competitive selection of S&T projects requiring a feasibility study.

2. Ukrainian Startup Fund was established in 2018 as a state-owned legal entity founded by the Cabinet of Ministers of Ukraine that focuses on supporting Ukrainian startups offering non-refundable and non-equity grants of all programs up to \$95k per startup. Initially set up to boost the development of the Ukrainian startup ecosystem.

The activities of the Ukrainian Startup Fund are aimed at:

- competitive selection of innovative projects on a permanent basis;
- providing startups with funding in the form of two types of Grants: for pre-seed projects with a funding of \$ 25,000 and seed of \$ 50,000;
- constant support, communication and assistance in promoting startups, their further entry into global markets;
- opportunity for the startup to undergo an acceleration program for grant funds in one of the leading international and Ukrainian Accelerators accredited by the Fund, of their choice - up to \$10k per startup;
- global promotion through USF Innovation Vouchers Program (Web Summit 2021 in Lisbon, CES 2022 in Las Vegas, etc.) - up to \$10k per startup;
- constant feedback and valuable advice from qualified experts of the Fund with significant experience in the field of innovation and investment activities;
- implements a corporate innovation program (startup scouting for Ukrainian corporations, such as DTEK, MHP, OKKO, ArcelorMittal, Vodafone, etc.) and USF Japan Roadshow (demo day especially for Japanese investors);
- expanding and establishing partnerships and cooperation with representatives of the national and international startup ecosystem.

3. The Resolution of the Cabinet of Ministers of Ukraine "Some issues of organisation and holding of the international contest of scientific, scientific-technical developments and innovative projects "MICT IIATOKA. PATON BRIDGE" of January 26, 2022 № 50 approved the Regulation on the international competition of scientific, scientific and technological developments and innovation projects "MICT IIATOKA. PATON BRIDGE".

The aim of the competition is to create favourable conditions for attracting young people to scientific, scientific-technical and innovative activities, to deepen the integration of Ukraine into the world scientific and innovative entrepreneurial community, positioning Ukraine as a country with a powerful intellectual and entrepreneurial potential, increasing its investment attractiveness.

The competition will be held in 7 areas:

- digital economy and society;
- resource efficient economy and "green" growth;

- bioeconomics, natural resources;
- health of the nation;
- advanced industrial technologies;
- culture, creativity, inclusive society;
- security and defence.

Contest "MICT ПАТОHA. PATON BRIDGE" planned to be held for the first time in 2022. It is expected to become annual.

B. Among the information and communication tools are the following measures aimed to support science and business cooperation:

1. In 2021, the Ministry of Education and Science of Ukraine in partnership with the Innovation Ukrainian Startup Fund introduced a quarterly event - Science & Business StartupBootcamp and Science & Business Demo Day to combine scientific and innovative potential of scientists, startups, companies, experts, investors, media and to find innovative solutions, raise awareness on business, marketing, sales, investment and innovation.

2. The Ministry of Education and Science has launched the All-Ukrainian Innovation Festival to promote the developments of scientists and innovators, as well as to attract investors to finance the implementation of new developments. The All-Ukrainian Innovation Festival is a platform where scientists, innovators and startups can show their best projects, compete for their financial support, and meet potential investors. As part of a series of events, Ukrainian innovators presented their latest developments in IT, education, healthcare, agriculture, energy efficiency, ecology, assistance to people with special needs, and medicine spheres.

3. At the National Technical University of Ukraine "Igor Sikorsky Kyiv Polytechnic Institute" is holding the Festival of Innovative Projects, the Sikorsky Challenge. The festival has been held annually since 2012 and has become very popular among students and entrepreneurs. Within the framework of the Festival there is a competition of startups and thematic forums dedicated to the development of innovative economy at the regional, national and international level.

4. The Ukrainian Startup Fund regularly holds events with the most vital stakeholders in the ecosystem to strengthen the skills, networking and communication of startups. More than 30 events (Bootcamps, Hackathons, Workshops, Crash tests, etc.) were conducted by USF in cooperation with different government agencies and the leaders of the innovation ecosystem.

Digital tools:

1. The Science and Business Platform was launched on 01 February 2022 - an online platform for communication and effective interaction between business and the scientific community, enabling businesses to find scientific results, scientific research and scientists - to realise their potential and commercialise the results of scientific research.

2. Ukrainian Tech Ecosystem Overview – is an online platform for business information about IT-companies, people, investors and the whole tech ecosystem of Ukraine in general.

Institutional tools.

There is a network of science and technology parks in Ukraine. There are 37 science parks, created and functioning in Ukraine. A science park is created to develop research and technological,

and innovation activity in a higher educational institution and/or scientific organisation, efficient and reasonable use of available scientific potential, facilities, and resources for commercialization of the results of scientific studies and their introduction both in domestic and international markets. A system of technology parks has been created and is functioning in Ukraine, the main aim of which is the comprehensive organisation of science-based production via maximal promotion of the creation and introduction of new technologies and stimulating the development of the specialists' creative potential.

Concentrating scientific, industrial, and financial resources, the technology parks ensure the renewal of the complete life cycle of innovations: a study – an elaboration – an introduction –large-scale production release of science-based high-technology products, competitive in international markets.

A network of business incubators and business accelerators is functioning in Ukraine to support start-ups and innovators.

**36. What are the main universities, research institutes or centres active in IST research?
In which domains?**

The main universities active in IST research are:

Ivan Pulyuy Ternopil National Technical University, Khmelnytsky National University, National Aviation University, National Technical University of Ukraine "Igor Sikorsky Kyiv Polytechnic Institute", National University "Zaporizhzhya Polytechnica", National University "Lviv Polytechnica", Kharkiv National University of Radio Electronics, National Transport University, M. Zhukovsky National Aerospace University "Kharkiv Aviation Institute", Oles Honchar Dnipro National University, Sumy State University, Taras Shevchenko National University of Kyiv, Vinnytsia National Technical University, V. N. Karazin Kharkiv National University, Western Ukrainian National University.

The main research institutions active in IST research are:

Institute of Artificial Intelligence Problems of the Ministry of Education and Science and the National Academy of Sciences of Ukraine, International Research and Training Center for Information Technologies and Systems of the National Academy of Sciences of Ukraine and the Ministry of Education and Science.

Ukraine has a strong scientific base and a network of publicly funded technical universities. Out of 1,700 educational institutions in Ukraine, 150 offer bachelor's degree programs in IT specialties. The most powerful educational centres form clusters of companies in their regions.

The largest educational clusters and the number of bachelor's graduates in them are the following (due to Ministry of Science and Education data):

I. Kyiv - 5053:

Kyiv Igor Sikorsky Polytechnic Institute
National Aviation University
State University of Telecommunications
Kyiv Taras Shevchenko National University named
Kyiv-Mohyla Academy

II. Western Ukraine - 2825:

Lviv Polytechnic University
Lviv Ivan Franko National University
Ternopil Ivan Pulyuy National Technical University
Western Ukrainian National University
Ukrainian Catholic University
Ivano-Frankivsk National Technical University of Oil and Gas
Precarpathian Vasyl Stefanyk National University

III. Kharkiv - 2607:

Kharkiv National University of Radio Electronics
Kharkiv Polytechnic Institute
Kharkiv Karazin National University

IV. Dnipro, Zaporizhia - 1709:

Dnipro Polytechnic University
Dnipro National University named after Oles Honchar
Zaporizhia Polytechnic University

V. Odessa - 873:

Odessa Polytechnic University
Odessa Mechnikov National University

VI. Vinnytsia - 516:

Vinnytsia National Technical University

VII. Other regions - 3345.

Continuation of master's studies in 2020 was chosen by 54% of bachelor's graduates. 9300 master's graduates in 2020, 10700 in 2019, 13100 in 2018, 10400 in 2017.

Engineering and Computer Science - the most popular specialties in 2021. Computer Science - 5100 graduates, Computer Engineering - 3300, Software Engineering - 3000, Automation and computer integrated technologies - 2100, Cybersecurity - 1700, Information systems and technologies - 700, Applied Mathematics - 600, System analysis - 500.

D. Digital capacities

37. Do you have digital capacities in your country in the sense of Digital Europe Programme, like for instance, HPC (High Performance Computing) centres, Cybersecurity centres, AI Testing and Experimentation Facilities, Data spaces, Digital Innovation Hubs?

Cybercenter UA30 is part of the State Service of Special Communications and Information Protection of Ukraine. It is the newest state centre for responding to cyber incidents, acquiring skills and knowledge in the field of cybersecurity. It also includes an updated training platform with a unique technology for testing real cyber attack scenarios in the learning environment. Among the main priorities is the protection of critical information infrastructure. These are state registers, digital services, state information resources and information systems of critical infrastructure facilities.

There is also a Cybersecurity Center of the National Bank of Ukraine, which was established in 2017 to combine and coordinate efforts in the field of cybersecurity of the banking and financial sectors of Ukraine. Since 2018, the Cybersecurity Center of the National Bank of Ukraine has had a cyber incident response team in the banking system (CSIRT-NBU).

Digital Innovation Hubs operate on the basis of the National University "Lviv Polytechnic", Kyiv Igor Sikorsky Polytechnic Institute, Kyiv Academic University.

Artificial intelligence laboratories are created on the basis of: Zaporizhia Polytechnic University, Kyiv Igor Sikorsky Polytechnic Institute, Lviv Ivan Franko National University.

In December 2020, the Government of Ukraine approved the concept of artificial intelligence development till 2030. In May 2021 a plan for its implementation was approved.

The main objectives of the plan are:

- improving the legal regulation of artificial intelligence (in particular in the fields of education, economics, public administration, cybersecurity and defence);
- improving the quality of higher education and educational programs aimed at training specialists in the field of AI;
- implementation and realisation of innovative projects with the use of AI by business entities;

- increasing the level of information security and data protection in information and telecommunication systems of state bodies;
- ensuring the use of AI technologies in defence systems, health care, justice, as well as to analyse the effectiveness of public administration.

Ukrainian National Grid was founded as the targeted state scientific and technological project (program) on the development and implementation of grid-technologies adopted by the Cabinet of Ministers of Ukraine in 2009. The Ukrainian National Grid (UNG) is an e-infrastructure set up to share and manage the resources of 26 Ukrainian institutes and universities. The UNG has 14 clusters, supported by the National Academy of Sciences (NAS) of Ukraine, that have been fully integrated in the EGI Federation since June 2012. The Ukrainian resources are available to researchers through 9 Virtual Organisations (VOs). Ukraine joined the EGI Council in 2018 as an Associated Participant after a fruitful collaboration going back for many years.

Bogolyubov Institute for Theoretical Physics of the NAS of Ukraine (BITP) officially represents Ukraine in EOSC Association. For ensuring scientific and scientific-organisational activities in the NAS of Ukraine in terms of implementation of cloud technologies and as part of the work on building a prototype of the National Open Science Cloud of Ukraine, as part of the European Open Science Cloud, in 2018 in the BITP built a modern cloud infrastructure under the OpenStack software system using 12 servers. NOSC-UA Hub was created to support the European Open Science Cloud (EOSC) National Initiative as a federation of digital object clouds based on the principle of co-participation of UNG resource centres in a common platform operating on existing grid, cloud technologies for interoperability at institutional, national, European and global levels. The NOSC-UA Hub is designed to provide both general functions and localised cloud services delegated at the community level, integrating existing resources in data centres compatible with European e-infrastructures. Provision is based on local-centred subsidiarity (e.g., national and disciplinary nodes linked to pan-European nodes).

In 2021 a Data Repository DataverseUA was created on the basis of Kyiv Academic University and the BITP Cloud Cluster with the support of the NAS of Ukraine to connect Ukrainian research institutes and universities to the European Data Infrastructure (EUDAT). DataverseUA is a generic repository for open research data from researchers from Ukrainian research institutions and aligned with the FAIR Guiding Principles for scientific data management and stewardship.

One of the important achievements of the V.M. Glushkov Institute of Cybernetics of the NAS of Ukraine is the creation in 2004-2007 of a family of supercomputers for information technology (SCIT) - high-performance computing cluster systems on a modern element base. Already today, a number of information technologies have been implemented on clustered supercomputers to solve important classes of practical problems. The SCIT family of supercomputers is integrated into a supercomputer complex with a capacity of about 6 trillion operations per second. Through the Internet, it serves the computing needs of the scientific community of the NAS of Ukraine and universities and is one of the supercomputer nodes in the international grid system.

38. Please describe the status of the semiconductor and electronics ecosystem and market in your country.

Ukraine still has significant potential in the semiconductor and microelectronic industries. Powerful single-crystal growing enterprises operated in Ukraine in Svitlovodsk, Zaporizhia, Kyiv,

Chernivtsi, and Uzhhorod. The staff of the industry at the time of Ukraine's independence numbered about one million employees, today only a few thousand specialists work. Now such companies as Rodon in Ivano-Frankivsk, Graviton and Quartz in Chernivtsi, Gamma in Zaporizhia, Crystal, Saturn and Start in Kyiv, Dnipro in Kherson, Zhovten in Vinnytsia and others.

Today in Ukraine, thanks to private initiative and developed technological achievements, microelectronic enterprises have been partially preserved, in particular, the State Enterprise Kyiv State Design Bureau Luch, the Central Design Bureau Rhythm, the State Enterprise of Special Instrument-Making Arsenal, the State Enterprise Scientific Research Orion Research Institute, Radionics LLC, Fotoprilad Research and Production Complex.

The production sphere is represented also by other enterprises, in particular:

- Karat (Lviv) (Materials of optoelectronics, quantum electronics and optics, Materials of magnetoelectronics Materials of acoustoelectronics, Materials of cryoelectronics, Ceramic materials of electronic equipment, Materials for microelectronics, Technological materials for assembly and assembly works).
- Saturn (Kyiv) (Parts for radio telescopes, Radio relay communication systems, Radio relay stations, Low noise transistors, Low noise transistor amplifiers, Capacitors, Filters).
- Melexis (chip design).
- Sonata IC Design (chip design).
- SPP KVAZAR, the company, previously provided a full cycle of production - from silicon to panel production. Currently, Kvazar specialises in the production of equipment for railways and municipal transport, industry and power plants.
- PJSC "Chernihiv Plant of Radio Devices" (has a well-developed production structure with modern technologies for the production of electronic devices and other equipment).
- The State Enterprise "Production Association" Southern Machine-Building Plant named after OM Makarov "is part of the military-industrial complex of Ukraine. Its production facilities are aimed at the defence sector of Ukraine.
- PJSC "Research and Production Association" Kyiv Plant of Automation "" among the main activities has the capacity to manufacture tools, equipment and facilities for radiological and measuring purposes. General management is carried out by Ukroboronprom.
- The state enterprise Kvazar-IS specialises in the production of a wide range of integrated circuits, which are later used in the production of automotive electronics, home appliances, telephones, television equipment and other electronic products. The main activity is operational amplifiers.

In general, the list of legal entities that as of May 2022 are registered in the USREOU with the code of the main economic activity, according to registration data, 26.11 "Manufacture of electronic components" according to NACE-2010 contains 195 companies.

The current state of the technological base of electronics in Ukraine is characterised by the absence of a closed cycle of production of microelectronic components and final products based on them, as well as the lack of modern technological base and a single technological cycle of

instrumentation. In fact, preserved fragments of technological lines and scientific and technical groups of specialists in materials science in various departments (for example, the concern "Science", scientific and industrial enterprise "Karat") are not in demand, and therefore the conditions for training young professionals have deteriorated.

Education

Many technical universities of Ukraine have training programs for specialists of different levels in the field of semiconductor and electronics (materials, semiconductor physics, semiconductor devices, etc.), including National Technical University of Ukraine, Kyiv Igor Sikorsky Polytechnic Institute, Kharkiv National University of Radio Electronics, Kharkiv, Chernivtsi National University named after Yuriy Fedkovych, National University "Lviv Polytechnic", Kharkiv National University named after Vasyl Nazarovych Karazin, Dnipro National University named after Oles Honchar.

Research and development is carried out in the main research centres:

National Academy of Sciences of Ukraine

- Institute of Semiconductor Physics V.Ye. Lashkaryova (physics of semiconductor materials and structures and their diagnostics; surface physics, optoelectronics and photonics; THz- and IR-functional semiconductor micro- and nanophotoelectronics; physics and technology of sensor systems.)
- Scientific and Technological Complex "Institute of Single Crystals", which includes the State Enterprise Research Institute of Microdevices. (functional materials science, microelectronics, nanotechnologies, creation of laser and scintillation crystals, research of crystal and nanosystem growth processes, scintillation materials science, disease diagnostics, medical instrument making)
- Institute of Metal Physics, Kyiv
- Institute of Materials Science Frantsevich, Kyiv
- Radio Astronomical Institute, Kharkiv
- Institute of Radiophysics and Electronics, Kharkiv
- National Research Center "Kharkiv Institute of Physics and Technology" (solid state physics; physics of radiation phenomena and radiation materials science; materials technology; plasma physics and controlled thermonuclear fusion; nuclear physics, high energy physics, physics and technology of accelerators; new methods of acceleration; plasma electronics and physics of high-current beams; theoretical physics)

Universities

- National Technical University of Ukraine, Kyiv Polytechnic Institute named after Igor Sikorsky (Micro and nanoelectronic systems)
- Yuriy Fedkovych Chernivtsi National University (Development of the latest methods and systems of 3D Jones matrix microscopy of polycrystalline films of biological fluids, Development of the latest methods and biomedical systems of polarisation-holographic fractametry of crystallites of human tissues and fluids and Schottky diodes with high radiation resistance, Search for optimal conditions for the synthesis of new generation quantum dots from non-toxic elements for light-transmitting devices)
- Lviv Polytechnic National University (Nanomaterials and nanotechnologies, new materials and technologies. Infocommunication radio-electronic, electronic and optoelectronic systems and devices, materials and components. Development of theoretical bases and technologies of processes for obtaining new organic and inorganic substances and materials for various purposes.)
- Kyiv Academic University (quantum material, nanomaterials and nanotechnology, superconductivity quantum electronics and spintronics, synchrotron study of electronic structure of materials, topological condensed matter: concepts and materials for future technologies, atomic force and scanning tunneling microscopy and surface spectroscopy, physics of mono- and multilayer metal systems)

39. What is the trade in raw materials or any other supply component relevant for the semiconductor and electronics market in your country?

According to the classification of economic activities, semiconductors belong to the Manufacture of electronic components.

According to the State Statistics Service, within the framework of "Production of electronic components and boards" for 2021, goods worth UAH 1,134.8 million were sold.

In the foreign trade of semiconductors and electronics with the world in 2021, imports prevailed - 543444.6 thousand dollars. USA. Exports amounted to 25,631.4 thousand dollars. USA:

- Diodes, transistors and similar semiconductor devices: - Export - 8541.2 thousand dollars. USA, Imports - 298091.7 thousand dollars. USA.
- Electronic integrated circuits: Exports - 17090.2 thousand dollars. USA, Imports - 245352.9 thousand dollars. USA.

10% of the world's reserves of quartzite, from which silicon is produced, are concentrated on the territory of Ukraine. Ukraine has quartzite processing facilities for silicon mining, including:

- PJSC "Semiconductor Plant" (Zaporizhzhya) has the appropriate technological capacity for the production of poly- and single-crystal silicon.

- Prolog Semicor LLC (Kyiv) has a separate shop for the production of silicon and silicon wafers.

- PJSC "Zaporizhabraziv" (Zaporizhzhya) has facilities for the production of silicon carbide in the fraction. It is currently producing electric rounds and grinding materials.

Ukraine still has potential to build a full cycle of production of chips and other modern semiconductor products. But the Ukrainian industrial sector, which needs different types of silicon, mostly uses imported silicon, as today it is cheaper and faster to buy silicon in China or Hong Kong. In general, the industrial use of silicon in Ukraine is most in demand in the military-industrial complex and in the electricity industry.. The use of silicon in telecommunications, which can accelerate the development of 5G networks and digitalization in general, is low.

Ukraine needs to develop technologies to create a component base of microwave electronics. For this purpose, there are enterprises, institutions and organisations that have the necessary human and logistical resources, in particular, those that are subordinate to the line ministries, the National and branch academies of sciences, the Ministry of Education and Science, in particular:

1. SE Research Institute "Orion" Kyiv

Development of technologies and production of microwave components and microwave modules of centimetre, millimetre and terahertz ranges.

2. The State Enterprise of Special Instrument-Making Arsenal, Kyiv

Development of technologies and production of microelectronics devices for various industries.

3. Research and Production Enterprise "Karat" Lviv

Development of technologies and production of semiconductor epitaxial structures for microwave technology, LEDs and others, STC for the creation of electronic materials.

4. Central Design Bureau Rhythm, Chernivtsi

Development of technologies and production of semiconductor optoelectronic devices (photodetectors, etc.), light-emitting devices.

5. Iceberg State Research Center for Superconducting Radio Electronics, Kyiv

Development, production and research of instruments and radiometric systems in the microwave range.

Potential ukrainian customers of products

1. SE "Quantum Research Institute", Kyiv;
2. SE "Quantum Radar", Kyiv;
3. SE "Quantum Navigation and Control", Kyiv;
4. Orion Research Institute, Kyiv;
5. OJSC HC "Ukrspetstechnika", Kyiv;
6. Concern "RRT", Kyiv;
7. Design Bureau "Luch", Kyiv;

8. Department of Radio Engineering Troops (RTV), Anti-Aircraft Missile Troops (SRS), Radio-Electronic Combat (REB), Communications and Radio Engineering Support of Automated and Information Systems of the Air Force of the Armed Forces of Ukraine, Vinnytsia

9. Design Bureau "Southern" , Dnipro;

10. CJSC RTV Research Institute, Lviv;

11. SE "Lviv State Plant" Lorta ", Lviv;

12. SE "Research and Production Complex" Iskra ", Zaporizhzhya;

13. RI Research Institute, Kharkiv

14. "Orion-Navigation", Smila

E. Public sector

40. What are the public services offered on-line to citizens and businesses and their usage rates?

The Unified State Web Portal of Electronic Services (Portal Diia) is designed to exercise everyone's right to access electronic services and information on administrative and other public services, appeal to executive authorities, other state bodies, local governments, enterprises, institutions and organisations (including in accordance with the Law Of Ukraine "On Citizens' Appeals"), obtaining information from national electronic information resources, which is necessary for the provision of services, as well as for monitoring and evaluating the quality of services.

Through the Unified State Web Portal of Electronic Services (Portal Diia), the opportunity to receive 86 services is realised. Since its launch, the portal has been visited by 16 million unique users. The basic concept of creating an User's e-office is to provide a single point of entry that allows citizens to access and obtain information about themselves. As of March 2022, 14 public registers are integrated into the User's e-office on the Portal Diia, so registered users can find information about their property in the User's e-office of the Portal Diia: vehicles, land, real estate, and private entrepreneur status, information about their debts (if any), voter information, employment records, and user tax information.

As of April 6, 2022, it is possible to receive 55 services:

- 1) automatic registration of a Individual Entrepreneur;
- 2) revocation of the construction permit;
- 3) issuance of a construction passport;
- 4) extract from the register of insured persons;
- 5) extract from the register of the territorial community;
- 6) making changes to the capacity of the food market operator;
- 7) making changes about Individual Entrepreneur;
- 8) making changes to the construction permit;
- 9) declaration of the single tax payer;

- 10) declaration of waste;
- 11) declaration of readiness for operation by court decision;
- 12) declaration of readiness for operation of SS1 facilities;
- 13) declaration of readiness for operation of spontaneously constructed objects on the land plot of the corresponding purpose;
- 14) declaration of readiness of the facility for operation on the basis of a construction passport;
- 15) declaring changes in prices for goods;
- 16) declaring the child's place of residence;
- 17) children's COVID-certificate of vaccination;
- 18) children's COVID-certificate of negative PCR test;
- 19) children's certificate of recovery from COVID-19;
- 20) Diia.QR;
- 21) certificate OK-5;
- 22) certificate OK-7;
- 23) certificate of income;
- 24) certificate of pensioner's income;
- 25) permit for construction works;
- 26) water use permit;
- 27) unemployment benefits;
- 28) adult COVID vaccination certificate;
- 29) adult COVID certificate of negative PCR test;
- 30) adult certificate of recovery from COVID-19;
- 31) childbirth assistance;
- 32) closure of Individual Entrepreneur;
- 33) ordering permits for international transportation of goods;
- 34) application for the provision of urban planning conditions and restrictions on land development;
- 35) application for a subsidy;
- 36) application for acquiring the status of a resident of Diia.City;
- 37) housing loan for IDPs;
- 38) licence for firefighting activities;
- 39) licence for the production of drugs;
- 40) licence for import of medicines;
- 41) licence for trucking services;

- 42) licence for the sale of medicines;
- 43) inspection of the carrier;
- 44) verification of medical reports;
- 45) recalculation of pension;
- 46) signing documents;
- 47) notice of the start of construction work on the basis of the construction passport;
- 48) notification of the start of construction work SS1;
- 49) notice of the beginning of preparatory work;
- 50) appointment of a pension;
- 51) termination of internally displaced persons financial assistance;
- 52) continuation of internally displaced persons financial assistance without changing the conditions;
- 53) registration of market operator capacities;
- 54) registration of limited liability company on the basis of the model charter;
- 55) certificate of acceptance of the object into operation.

Construction services are not available in some regions. If the object is located in Donetsk, Luhansk, Sumy, Kherson, Mykolaiv, Kharkiv, Zaporizhia, Kyiv regions or in the city of Kyiv - the service cannot be obtained.

As a result of the full-scale aggressive war waged by the Russian Federation against Ukraine and the Ukrainian people and in order to preserve the integrity and confidentiality of information, prevent unauthorised interference and distortion of data contained in relevant registers, some state registers have been temporarily shut down and as a result, the ability to receive 31 electronic services is disabled:

- 1) verification of driver's licence;
- 2) verification of technical passport;
- 3) renewal and exchange of driver's licence;
- 4) certificate of no criminal record;
- 5) order an individual licence plate;
- 6) appointment of the appropriate user;
- 7) extract on the land plot;
- 8) extract on the normative monetary value;
- 9) information about the owner of the land;
- 10) information on persons who reviewed information on the land plot;
- 11) municipal nanny;
- 12) fire declaration;

- 13) cancellation of the notice of commencement of preparatory or construction works;
- 14) state registration of rights to immovable property;
- 15) change of residence;
- 16) removal from the place of residence;
- 17) information from the State Register of Real Property Rights
- 18) transition of a legal entity to activity on the basis of a model charter;
- 19) re-issuance of a marriage registration certificate;
- 20) termination of registration of the capacity of the food market operator;

eBaby is a service that encompasses all the services connected to the birth of a child in a single application:

- 21) state registration of birth and determination of the child's origin;
- 22) registration of residence;
- 23) appointment of childbirth assistance;
- 24) assignment of assistance to children brought up in large families;
- 25) entering information about the child in the Register of Patients, which is maintained in the central database of the electronic health care system;
- 26) registration in the State Register of Individuals - Taxpayers;
- 27) issuance of certificates of parents of a large family and a child from a large family;
- 28) determining the affiliation of a newborn child to the citizenship of Ukraine;
- 29) entering information about the newborn child in the Unified State Demographic Register with the assignment of a unique record number in it;
- 30) provision of one-time in-kind assistance "baby package" at the place of residence or stay of its recipient;
- 31) providing monetary compensation for the cost of one-time in-kind assistance "baby package".

27 services are available using the mobile application of the Unified State Web Portal of Electronic Services (Diia):

- 1) review and payment of fines for violation of traffic rules (photo and video recording);
- 2) review and payment of fines for traffic violations (issued by patrols);
- 3) entry in the waiting list for vaccination;
- 4) electronic service for the possibility of monitoring the observance of self-isolation and / or observation (isolation) of persons (mobile application "Home");
- 5) service for providing one-time financial assistance to insured persons;
- 6) review and payment of debts in enforcement proceedings;
- 7) replacement of driver's licence:

- due to damage;
- in connection with the loss;
- 8) local petitions;
- 9) submission of the single taxpayer's declaration (for Individual Entrepreneur);
(for 3 quarters and for 9 months);
- 10) payment of the single social contribution (for Individual Entrepreneur);
- 11) payment of the Single Tax (for Individual Entrepreneur);
- 12) payment of the administrative fee;
- 13) ordering and generating a remote qualified electronic signature "Diia. Signature" in one click;
- 14) COVID certificate ordering service:
 - international certificate - with a full course of vaccination;
 - internal certificate ("green") - with a full course of vaccination;
 - certificate of recovery - on the basis of a confirmed diagnosis;
 - "Yellow" certificate - with one dose of vaccine;
 - certificate based on PCR test - with a negative PCR test;
 - children's COVID-certificate - with one or two doses of vaccine);
- 15) change of place of registration;
- 16) providing assistance under the eSupport Program;
- 17) notification of changes in credit history:
 - 17.1 notification of credit history verification for the purpose of issuing a loan;
 - 17.2 notification of the opening of the loan agreement;
 - 17.3 notification of opening a credit card with a credit limit;
- 18) survey;
- 19) annual tax return for Individual Entrepreneur of tax groups 1-3;
- 20) declaration of place of residence;
- 21) notification of scheduled court hearings;
- 22) order of the certificate OK-5, OK-7;
- 23) order a certificate of no criminal record;
- 24) financial assistance (Come back alive);
- 25) proper user;
- 26) assistance to employees and Individual Entrepreneur;
- 27) filing a notice of damaged and destroyed movable and immovable property.

In total, more than **16 million Ukrainians use the mobile application of the Unified State Web Portal of Electronic Services (Diia)**. According to research, the mobile application of the Unified State Web Portal of Electronic Services (Diia) is one of the most popular mobile applications in Ukraine. 54% of all Internet users in Ukraine have a mobile application of the Unified State Web Portal of Electronic Services (Diia).

Almost 13 million users have received the international COVID vaccination certificate. About 70% of families have used the eBaby service. Since the launch of the service for registration of an Individual Entrepreneur in automatic mode, it has been used by more than 135 thousand people.

9,342,019 people used the eSupport program. The assistance program under the Program "eSupport" due to the loss of part of wages (income), whose work (economic activity) was temporarily suspended due to hostilities during the martial law in Ukraine, was used by 4,921,530 people.

41. Please report on the degree of alignment with the Directive (EU) 2019/1024 of the European Parliament and of the Council of 20 June 2019 on open data and the re-use of public sector information.

Basic principle of legislation on access to open data:

All public information is available, except as required by law.

All public information is provided in the form of open data by default.

In Ukraine, the principle of openness by default is defined as mandatory. That is, the basic principle of openness by default in Ukraine corresponds to the most progressive EU recommendations. The legal regime for the availability of information in the form of open data in Ukraine is more liberal than in the EU.

Scope of the legislation on open data by subjects:

The law on open data applies to both subjects of power and other legal entities determined by the criteria

The law on open data applies to:

- all legal entities financed from the state or local budgets, the budget of the Autonomous Republic of Crimea;
- persons, if they perform delegated powers of subjects of power in accordance with the law or contract, including the provision of educational, health, social or other public services;
- economic entities that have a dominant position in the market or are endowed with special or exclusive rights or are natural monopolies;

The scope of legislation on open data on entities in Ukraine is much wider than in the EU. The requirements of Ukrainian legislation apply to a significant number of private law entities that meet the criteria set out in the Law on Access to Public Information.

Scope of the legislation on open data on the content of data:

The scope of open data legislation extends to information held by any business entity:

- on the state of the environment;
- on the quality of food and household items;
- about accidents, catastrophes, dangerous natural phenomena and other emergencies that have occurred or may occur and threaten the health and safety of citizens;
- other information of public interest (is socially necessary information).

The scope of the Law on Access to Public Information on Supply of Goods/Services/Use of Budget Funds, etc. extends to legal entities financed from the state budget and local budget, as well as persons exercising delegated powers of subjects of power in accordance with law or contract. Research data do not fall within the scope of the Law on Access to Public Information.

The scope of the legislation on open data on the content of data in general is broader than the European, excluding information on research data.

Restrictions on access to information:

In Ukraine, the law defines comprehensive types of information with limited access. Even if the information belongs to one of these types, access to it is limited only if additional conditions are met.

Exclusions from the legislation on access to information:

The scope extends to any information in the possession of the subjects of power. In this case, information to which access is restricted by a natural or legal person is confidential and has limited access. In addition, the author has the exclusive right to authorise or prohibit the use of the work by others.

Regulation in Ukraine and the EU is similar

Method of providing information:

There are three mandatory forms of providing information in the form of open data:

- on request,
- publication on the Unified State Open Data Portal;
- on the websites of administrators.

Resolution of the Cabinet of Ministers №835 provides for access through the API (application programming interface), and establishes the principles of such access.

In Ukraine, the legislation is more favourable for obtaining information in the form of open data - the data must be published online, not just on request.

Description of open data:

Requirements for the passport (metadata) of the dataset - description of the discovered data are defined in the Resolution of the Cabinet of Ministers №835 and are fully consistent, including terminologically, with the requirements of European legislation.

High value datasets:

The Resolution of the Cabinet of Ministers of Ukraine №835 defines the areas in which the publication of open data is a priority. The list of high value datasets is approved by the Cabinet of Ministers of Ukraine.

Dynamic data:

The Resolution of the Cabinet of Ministers of Ukraine №835 defines the term dynamic data and provides for the possibility of providing access to data through the application programming interface, which should ensure round-the-clock reliability of data at the time of request.

Term of processing of the request:

The basic term for processing the request is 5 days. Extension of the term is up to 20 days.

Fee for the access to information:

Information in the form of open data is provided free of charge. (Copying and printing fees do not apply to open data, as it is provided in electronic form). However, there are cases when, in accordance with the law, access to information through the API is provided on a paid basis (for example, paragraph 7 of Part 2 of Article 11 of the Law "On State Registration of Legal Entities, Individual Entrepreneurs and Public Associations").

Provision of free information in the form of open data in Ukraine is more favourable for the development of the sphere than in the EU.

Terms of use of information:

The open format does not impose restrictions on the further use of information.

Refuse to access to information:

The procedure for appealing should be contained only in the refusal to provide public information.

The information controller who does not have the requested information, but whose status or nature of activity knows or should know who possesses it, is obliged to send this request to the appropriate administrator at the same time as notifying the requester.

In Ukraine, the requirement to provide information is more favourable for information seekers

Non-discrimination and fair competition

In Ukraine, any person is free to copy, publish, distribute, use, including for commercial purposes, in combination with other information or by including in their own product, public information in the form of open data with mandatory reference to the source of such information.

By amending the Resolution №835 in March 2021, Ukraine fully implemented the requirements of Directive 2019/1024/EU into national legislation on access to, use and re-use of open data.

However, Ukrainian legislation governing access to public information in the form of open data has a number of advantages over European:

- providing all public information in the form of open by default;
- a wider range of information to which access is provided;
- a wider range of entities subject to open data requirements;
- free access to open data;
- shorter terms of consideration of applications;
- providing access to information with limited access, if the public interest in obtaining it outweighs the harm from its disclosure.

42. What is the institutional set up and what are the regulatory instruments and procedures for data protection (personal and non-personal data), cyber security and the protection of privacy in the sector?

The Law of Ukraine "On Information Protection in Information and Communication Systems" regulates relations in the field of information protection in information, electronic communication and information and communication systems.

On 01 January 2022, the Law of Ukraine "On Public Electronic Registers" came into force, which stipulates that the processing and protection of personal data in public electronic registers is carried out in accordance with the Law of Ukraine "On Personal Data Protection".

Part 2 of Article 37 of the Law of Ukraine "On Public Electronic Registers" stipulates that the software of registers must meet the requirements for the software of registers in order to ensure a certain level of information protection.

In doing so protection of registers consists of implementation by the register holder or the administrator: creation, modernization and maintenance of continuous functioning of means of technical and cryptographic protection of register data and information, including with use of the introduced subsystems of protection; introduction and ensuring the use of technical and cryptographic protection of information during the maintenance of the register; application of means and technologies of backup of registered information and physical storage of its carriers; use of authentication tools to confirm the integrity of the information entered into the register and the registered information transmitted through the Electronic Interaction System, as well as identification of public registrars, creators and persons using the registered information in the order of special access; implementation of measures aimed at ensuring security of objects of critical information infrastructure (part 1 of Article 39 of the Law of Ukraine "On Public Electronic Registers").

Paragraph 18-1 of the part 1 of Article 1 of the Law of Ukraine "On the Basic Principles of Cybersecurity in Ukraine " provides for the establishment of the National Center for Reservation of State Information Resources - to ensure the reliability and continuity of state information resources,

cyber protection, storage of national electronic information resources, backup of information and data of national electronic information resources of state bodies, military formations, formed in accordance with laws, enterprises, institutions and organisations.

The National Center for Reservation of State Information Resources that provides: continuity of work of the relevant national electronic information resource, backup of information and data of the national electronic information resource through single main and backup protected data processing centres (data centres) intended for processing national electronic information resources, backup of national electronic information resources; reliable functioning of server equipment, data storage systems, active network equipment, architectural and technical solutions for backup and duplication of information systems, constantly operating engineering infrastructure; implementation of mandatory control over statistical data of work on physical protection of objects, system of management and monitoring of information systems, complex of organisational measures.

At the same time, state authorities, military formations established in accordance with the laws of Ukraine, state enterprises, institutions and organisations with the purpose of eliminating possible consequences of cyber incidents and cyber attacks should in turn create backup copies of national electronic information resources, which are in their possession or disposal and are critical to their sustainable operation, and transfer them for storage to the National Center for Reservation of State Information Resources, except for those whose transfer is limited by law. The procedure for transfer, storage and access to the above copies will be determined by the Cabinet of Ministers of Ukraine (part 6 of Article 8 of the Law of Ukraine "On Basic Principles of Cybersecurity of Ukraine").

Part 2 of Article 5 of the Law of Ukraine "On Basic Principles of Cybersecurity of Ukraine" provides that The National Coordination Centre for Cybersecurity, as a working body of the National Security and Defense Council of Ukraine, coordinates and monitors the activities of security and defence sector subjects that provide cybersecurity, submits proposals to the President of Ukraine on the formation and refinement of the Cybersecurity Strategy of Ukraine.

The main entities of the national cybersecurity system are the State Service for Special Communication and Information Protection of Ukraine, the National Police of Ukraine, the Security Service of Ukraine, the Ministry of Defense of Ukraine and the General Staff of the Armed Forces of Ukraine, intelligence agencies and the National Bank of Ukraine (part 2 of Article of the Law of Ukraine "On Basic Principles of Cybersecurity of Ukraine").

In addition, in accordance with Article 10 of the Law of Ukraine "On Information Protection in Information and Communication Systems" specially authorised central executive body for the organisation issues of special communications and information protection: develops proposals on state policy in the field of information protection and ensures its realisation within the limits of its competence; defines the requirements and procedure for the creation of a comprehensive system of protection of state information resources or information with limited access, the requirement for protection of which is established by law; organises the state examination of complex information protection systems, examination and confirmation of compliance of technical and cryptographic information protection means; exercises control over the ensuring of the protection of state information resources or limited access information, the requirement for protection of which is established by law; takes measures to detect threats to state information resources from unauthorised actions in information, electronic communication and information communication systems and gives recommendations on prevention of such a threat.

According to Article 2 of the Law of Ukraine "On the State Service of Special Communications and Information Protection Of Ukraine " State Service of Special Communications and Information Protection Of Ukraine is a state body, which is intended to ensure the functioning and development of the state system of governmental communication, the National Confidential Communications System, the formation and realisation of the state policy in the fields of cryptographic and technical protection of information, cyber defence, special purpose postal communication, governmental courier services, and other tasks according to the law.

The State Service of Special Communications and Information Protection Of Ukraine is responsible, in particular, for implementing the organisational and technical model of cyberdefense, implementing organisational and technical measures to prevent, detect and respond to cyber incidents and cyberattacks and eliminate their consequences (paragraph 88 part 1 of Article 14 of the Law of Ukraine "On the State Service of Special Communications and Information Protection Of Ukraine"). In addition, the specialists of the State Service of Special Communications Administration are involved in the preparation of relevant cyberdefense regulations and standards in Ukraine.

Currently State Service of Special Communications Administration has developed a new, more modern and complex document – Methodological recommendations for improving the level of the cyberdefense of the critical information infrastructure object, which is implemented by a single leading approach to cyberdefense, it is based on cybersecurity risk management and information protection; reproduced most of the Cybersecurity Framework provisions developed by the National Institute of Standards and Technologies of the USA(NIST), the most authoritative organisation in the field of cyberdefense standards.

In addition, approaches to the construction of protection systems on different subjects are being improved. Already, there is an opportunity to build protection by choosing between two approaches: to build a complex information security system – or an information security management system in accordance with the international standard ISO/IEC 27001. The third approach, which will be based on the standards developed by the National Institute of Standards and Technologies of the USA, continues to be developed.

In cybersecurity field:

The main regulatory law in the field of cybersecurity is the Law of Ukraine On the basic principles of ensuring cybersecurity of Ukraine entered into force in May 2018.

There is a second edition of the Cybersecurity Strategy of Ukraine, approved by the Decree of the President of Ukraine of 26 August 2021 № 447 "On the decision of the National Security and Defense Council of Ukraine of 14 May 2021". Ukraine's Cybersecurity Strategy defines the priorities of national interests in the field of cybersecurity, existing and potential cyber threats, goals and objectives of cybersecurity in Ukraine in order to create conditions for the safe functioning of cyberspace, its use in the interests of the individual, society and state.

Resolutions of the Cabinet of Ministers of Ukraine:

of 19 June 2019 № 518 "On approval of the General requirements for cyber protection of critical infrastructure" (regulates the issue of cyber protection of critical infrastructure of the state by defining general requirements for cyber protection of critical infrastructure);

of 09 October 2020 № 934 “Some issues of critical information infrastructure objects” (improves the procedure for compiling the list of critical information infrastructure objects and determines the mechanism of formation and functioning of the register of critical information infrastructure objects);

of 09 October 2020 № 1109 "Some issues of critical infrastructure" vital national interests);

of 11 November 2020 № 1176 "On approval of the Procedure for reviewing the state of cyber protection of critical information infrastructure, state information resources and information required by law" (regulation of the organisation of the review of cyber protection of state information resources and critical information infrastructure as part of measures to conduct a comprehensive review of the security and defence sector or as a separate measure in the framework of the implementation of legislation in the field of national security of Ukraine);

of 29 December 2021 № 1426 "On approval of the Regulation on the organisational and technical model of cybersecurity" (regulation at the legislative level of the implementation of organisational and technical model of cybersecurity, creating conditions and joint efforts of cybersecurity cybersecurity of the state).

Prepared and provided support for the submission to the Verkhovna Rada of Ukraine of the draft Law of Ukraine "On Amendments to Certain Laws of Ukraine" (Reg. № 4378 of 13 November 2020) (on amendments to the Law of Ukraine "On the State Service of Special Communications and Information Protection" Of Ukraine" and the Law of Ukraine "On Basic Principles of Cybersecurity of Ukraine" for the purpose of legislative regulation of the issue of backing up information and data of state electronic information resources by state bodies, military formations formed in accordance with Ukrainian laws, state enterprises, institutions and organisations issues of centralised storage of such backups by the State Service of Special Communications and Information Protection of Ukraine).

Preparation and support of approval of orders of the Administration of the State Service of Special Communications and Information Protection was prepared and provided: of 15 January 2021 № 23 "On approval of Methodical recommendations on categorization of critical infrastructure facilities" in order to identify (identify) and categorise critical infrastructure facilities that fall within the scope of its management);

of 06 October 2021 № 601 "On Approval of Guidelines for improving the level of cybersecurity of critical information infrastructure" already implemented by organisations in any sector of the economy);

of 21 October 2021 № 622 "On the organisation of cyber training in the State Special Service" (to increase the effectiveness of duties in positions related to the direct implementation of cybersecurity and cyber defence tasks, the Cyber Training Center to organise and conduct ongoing cyber training of personnel State Special Communications);

of 28 October 2021 № 640 "On Amendments to the Procedure for Scanning for Vulnerability of State Information Resources Placed on the Internet" resources). General rules for the exchange of information on cyber incidents have been developed and recommended. The TLP and the List of Cyber Incident Categories (documents will serve as a basis for the exchange of information on cyber incidents between national cybersecurity actors. The Cyber Incident Category exchange of information on cyber threats ("General rules for the exchange of information on cyber incidents. TLP") defines the method of classification of cyber incident reports, taking into account how and to

whom such information may be provided). Approved by the decision of the NCCC on 25 October 2021.

Components of the Cyber Defense Plan have been developed, which is an element of the IX section of the Defense Plan of Ukraine (approved by the Presidential Decree), strategic (operational) documents on implementation of the State Special Service and others).

Personal data protection

• Institutional set up

The main law governing the protection of personal data in Ukraine is the Law of Ukraine "On Personal Data Protection" (hereinafter: Law on personal data protection) of 01 June 2010 № 2297-VI, which entered into force on 01 January 2011.

Part 1 of the Article 22 of the Law on personal data protection prescribes that control over compliance with legislation in the sphere of protection of personal data shall within their competence be exercised by the following bodies:

- Ukrainian Parliamentary Commissioner for Human Rights (hereinafter – the Ombudsman);
- courts.

Status and competency of the Ombudsman are regulated by the Law of Ukraine "On Ukrainian Parliamentary Commissioner for Human Rights" (hereinafter: Law on the Ombudsman) of 23 December 1997, which entered into force on 15 January 1998.

Under part 2 Article 24 of the Law on personal data protection the bodies of state power, local self-government, as well as controllers/processors of personal data, that carry out the processing of personal data, which is subject to notification in accordance with this Law, shall establish a structural unit or a responsible person who organise the work related to the protection of personal data during processing.

Information on the specified structural union or individual in charge shall be reported to the Ombudsman, who shall ensure its publication.

According to Article 9 of the Law on personal data protection controllers/processors of personal data shall notify the Ombudsman about the personal data processing, which poses a particular risk to the rights and freedoms of personal data subjects, within thirty working days from the date of such processing.

Types of processing personal data that pose a particular risk to the rights and freedoms of personal data subjects and to the categories of subjects to which the notification requirement applies shall be determined by the Ombudsman.

Additionally, there is the Order of the Ombudsman № 1/02-14 of 08 January 2014, which particularly specifies The Order on Notification of the Ombudsman About Special Risk Data.

On 7th June 2021 a new draft Law on personal data protection was registered with the Verkhovna Rada of Ukraine (registration number 5628). This draft law modernises the data protection landscape in Ukraine and meets the highest EU standards in the area of privacy, including the General Data Protection Regulation. On 16th October 2020 the Joint EU/Council of Europe Project “European Union and Council of Europe working together to strengthen the operational capacity of the

Ombudsperson to protect human rights” prepared a Legal review on draft law on Personal Data Protection, which contains recommendations for its compliance with EU and Council of Europe standards.

The provisions of new draft Law on personal data protection:

- update the terminology of legislative regulation of personal data protection and its harmonisation with the terminology of the General Regulation on Personal Data Protection and Convention 108+;
- set the principles and grounds for the processing of personal data in full compliance with the requirements of the General Regulation on Personal Data Protection and Convention 108+;
- specify the principles to be followed during the processing of personal data;
- settle the issues of personal data processing on the Internet, processing of personal data during video surveillance or video recording of public events, processing of personal data for direct marketing purposes;
- strengthen the rights of the personal data subject to the processing of his personal data (the right to be forgotten, the right to object the processing of personal data, the right to limit the processing of personal data, the right to mobility of personal data, the right to be protected from automated decision making and the right to protect their rights and receive compensation for damages) and the mechanism of protection of rights in case of violation by the controller or processor;
- specify the rights and obligations of the controller and processor of personal data regarding the processing of personal data on the territory of Ukraine and the transfer of personal data to other states or international organisations.

Another draft law on the Data Protection Authority is currently in the drafting stage. It would contain provisions on setting up a new institution with its competency on personal data protection.

Furthermore, Ukraine is currently considering signing and ratification of the Convention 108+.

Regulatory instruments and procedures for personal data protection

Specifically, the following legislative acts in the area of data protection have been adopted:

- the Decree of President of Ukraine № 119/2021 on National Human Rights Strategy of 24 March 2021;
- the Order of the Ombudsman № 1/02-14 on documents in the area of data protection of 08 January 2014. This act specifies such documents as The Sample Order of Personal Data Processing and The Order on Notification of the Ombudsman About Special Risk Data;
- the Order of the Ombudsman № 94.15/19 on Regulation of Conducting by the Ombudsman of Monitoring Visits and Audits over Human Rights Compliance in the Sphere of Personal Data Protection of 17 September 2019;
- the Order of the Ombudsman № 3/02-15 of Procuring the Materials on Administrative Offences of 16 February 2015.

Moreover, each state body approves its own Procedure for personal data processing, which is agreed with the Ombudsman. Also, the responsible person who supervises the strict implementation of the provisions of this Procedure is appointed.

The Law of Ukraine № 1689-IX "On the peculiarities of providing public (electronic public) services" was adopted on 15 of July 2021. Under the Article 5 of this Law processing of information and personal data of the subjects of application necessary for receiving electronic public service and / or electronic display of information contained in documents is carried out by the controller and holder of the Unified state web portal of electronic services (Portal Diia) in accordance with the Law on personal data protection.

The Ombudsman additionally issued clarification letters and recommendations on appropriate personal data protection in the banking sphere, while creation of registration forms and surveys, remote provision of educational services, video surveillance in public places, etc.

The Ombudsman exercises its powers in the sphere of personal data protection's control by conducting inspections of individuals, individuals - entrepreneurs, enterprises, institutions and organisations of all forms of ownership, public authorities and local governments that are controllers and / or processors of personal data. Inspections can be scheduled, unscheduled, on-site and off-site. The procedure for conducting inspections is established by the abovementioned Order of the Ombudsman of 8th January 2014. Based on the results of inspections, acts of inspection of compliance with the requirements of the legislation on personal data protection are compiled, on the basis of which in case of detection of violations an order on their elimination or a report on administrative offence is compiled.

Every person has the right to file a complaint to the Ombudsman or court if there is a violation of his/her rights in the area of personal data protection (above mentioned Article 8 of the Law on personal data protection).

If the offence is established by the Ombudsman, the subject of inspection could be fined on the amount from one hundred to two thousand non-taxable minimum incomes. In case of detection of a criminal offence during the inspection, the Ombudsman sends the necessary materials to law enforcement bodies. Consequently the criminal liability could be applied.

Under the Article 182 of the Criminal Code of Ukraine illegal collection, storage, use, destruction, dissemination of confidential information about a person or illegal alteration of such information, except as provided by other articles of this Code, - shall be punishable by a fine of five hundred to one thousand tax-free minimum incomes, or correctional labour for a term up to two years, or arrest for a term up to six months, or restriction of liberty for a term up to three years.

The same acts committed repeatedly, or if they have caused significant damage to the rights, freedoms and interests of the person protected by law, - shall be punishable by arrest for a term of three to six months or by restriction of liberty for a term of three to five years, or by imprisonment for the same term.

Note. Significant damage in this article, if it consists in causing material damage, is considered to be such damage that is one hundred times more than the non-taxable minimum income of citizens.

Public notification, including through the media, journalists, public associations, trade unions, of personal information about the commission of a crime or other offence committed in compliance

with the law, are not acts that could be punishable according to this article, and do not entail criminal responsibility.

43. Please provide information on the (existence of) applicable rules regarding data retention, unsolicited communications (spam), itemised billing, comprehensive subscriber directories.

The Law of Ukraine "On Electronic Communications", developed in accordance with the European Electronic Communications Code.

This Law regulates, in particular, retention of data, processing and access to information and documents submitted by the provider of electronic communications networks and/or services, users of radio frequency spectrum, and suppliers of radio equipment to the regulatory body through the electronic regulatory platform (Article 8 of the Law).

Article 8. Electronic regulatory platform

1. The electronic regulatory platform is an automated information-analytical system of the regulatory body used to perform the powers provided by this Law and provide administrative services in electronic form, electronic exchange of information, documents and interaction with providers of electronic communications networks and / or services. suppliers of radio equipment, users of radio frequency spectrum and numbering resources, users of services.

2. The electronic regulatory platform provides access to:

1) register of providers of electronic communications networks and services;

2) the register of licences for the use of radio frequency spectrum;

3) the register of assignments of radio frequencies of general users;

4) the register of the primary distribution of numbering resources;

5) register of radio equipment and radiating devices;

6) databases of ported numbers in compliance with the requirements of the Law of Ukraine "On Personal Data Protection";

7) geographic information system for geographical surveys of accessibility on the territory of Ukraine of broadband access networks (fixed and mobile) and universal electronic communication services.

3. Electronic regulatory platform provides:

1) submission of a notice of commencement of activities in the field of electronic communications;

2) maintaining the registers, databases and systems specified in part two of this article;

3) functioning of personal offices of suppliers of electronic communication networks and services, general users of the radio frequency spectrum, suppliers of radio equipment;

4) submission of documents for obtaining a licence for the use of radio frequency spectrum, permits for the use of numbering resources and other administrative services of the regulatory body provided for by this Law;

5) submission of regulatory reporting and information provided for by this Law;

- 6) control over the completeness of filling in reports, applications and other documents required to obtain administrative services of the regulatory body provided for by this Law;
- 7) review of the status of consideration of submitted documents;
- 8) access to information and documents specified by this and other laws;
- 9) publication of the results of the provision of administrative services;
- 10) formation and submission in electronic form of requests for extracts;
- 11) review, copy and print extracts from the registers and other documents specified in paragraphs 1-5 of part two of this Article in accordance with this Law;
- 12) the possibility of payment for the provision of administrative services provided by this Law with the use of payment systems via the Internet;
- 13) access of public authorities, providers of electronic communications networks and / or services, users of radio frequency spectrum, users of numbering resources, users of services, suppliers of radio equipment, other interested persons to information posted on the electronic regulatory platform in the amount and manner prescribed by laws of Ukraine;
- 14) display in personal accounts of providers of electronic communications networks and / or services, users of radio frequency spectrum, users of resource numbering resources, automatic marking of document details (colour marking or in any other way to attract attention) in case of approximation deadline for its renewal;
- 15) storage, processing and provision of access through the personal account to information and documents submitted by the provider of electronic communications networks and / or services, users of the radio frequency spectrum, suppliers of radio equipment to the regulatory body through the electronic regulatory platform;
- 16) carrying out other operations specified by this Law and the regulations on the electronic regulatory platform approved by the regulatory body.

Issues of protection of end users from unsolicited communications (spam) are defined by Article 120 of the Law.

Article 120. Protection of end users from spam

1. It is prohibited to intentionally send electronic, text and / or multimedia messages without the consent (order) of end users (spam) to their e-mail addresses or terminal equipment, except for messages from the provider of electronic communications services related to the provision of electronic communications and / or information services, as well as in addition to personal messages of end users, which are not of a mass nature and are sent for non-commercial purposes to end users of electronic communications services.

2. End-users may use telephone numbers or other network subscriber IDs obtained by any person in the sale of goods or services to send advertisements for the sale of goods or services only with the consent of the end-user, including in electronic form, and if the end user gets the opportunity to refuse the use of their data free of charge at any time in a simple and understandable form.

Issues of itemised billing are defined by Articles 103, 105 and 107 of the Law and the rules for the provision and receipt of electronic communications services (are currently being developed).

In case of provision of universal electronic communications services a provider of electronic communications services should provide among other invoicing in accordance with the rules for providing and receiving electronic communications services free decryption of universal electronic communications services received by the consumer for the billing period to which the consumer has a claim, taking into account the technical capabilities of the provider of electronic communications services (Article 103).

According to part eight of Article 105 in order to ensure the correctness of invoicing for provided electronic communications services, providers of such services must:

1) keep reliable records of electronic communication services provided by them;

2) keep records of the provided electronic communication services during the statute of limitations specified by law;

3) in case of charging depending on the time or volume of consumption of provided electronic communications services (duration of time, volume of data, number of messages, communication sessions) take into account only full relevant units of such services in accordance with the rules of providing and receiving electronic communications services . The concept of a complete unit of accounting for services is determined by the rules of provision and receipt of electronic communications services.

If Internet access services or universal electronic communications services are accounted for on a time-by-time or volume-based basis, their providers offer end-users the ability to monitor the receipt of each of these services.

According to Article 107 end users of services when ordering and/or receiving electronic communications services have the right to free receipt from the provider of electronic communications services of invoices for provided electronic communications services. At the personal request of the end user, taking into account the technical feasibility of electronic communications network equipment, the amount accrued for payment should be deciphered only for the billing period to which the end user has claims, indicating the end user number called by the end user, type of service, the volume of services provided, the amount of funds to be paid for each communication session. Electronic communication services provided impersonally (anonymously) are not subject to decryption.

Article 117 of the Law regulates the issue of catalogues of numbers (comprehensive subscriber directories). This article is applied taking into account the requirements of the Law of Ukraine "On Personal Data Protection".

Article 117. Catalogs of numbers

1. *Catalogs of numbers (telephone directories) intended for publication, including electronic versions and databases of information and reference services, may contain information on the surname and patronymic (if any), name, address and telephone number of the subscriber in if the contract for the provision of electronic communications services contains the prior recorded consent of the consumer to publish such information. During the automated processing of subscriber information, the provider of electronic communications services shall ensure its protection in accordance with the law.*

2. *Before his data is included in the catalogs of numbers (telephone directories), the consumer must be informed free of charge about their purpose and the possibility of using such data using the search function, available electronically.*

3. *The consumer has the right at any time upon written request to withdraw the consent to the inclusion of his data in the catalogs of numbers issued in electronic form and use in reference services.*

In this case, the relevant consumer data are immediately and free of charge removed from the electronic directory (catalog).

4. *This article is applied taking into account the requirements of the Law of Ukraine "On Personal Data Protection".*

Under Article 13 of the Law "On Personal Data Protection" retention of personal data must be accompanied with actions to ensure its integrity and appropriate mode of access to it.

According to Article 15 of the Law "On Personal Data Protection" personal data should be deleted or destroyed when the period of retention, which is dedicated by consent of the subject of personal data of by law, expires.

Controller and processor must determine the period of data retention in their Privacy Notices for subjects of personal data. Some personal data needs to be stored for a certain period under the law.

Otherwise, controllers and processors should be guided by principles of minimization of personal data processed and retention of the personal data only for as long as is necessary to fulfil the purpose of processing.

44. Provide information on the domain name registry or registrars.

The registry and the manager of the .UA country code top-level domain (<https://www.iana.org/domains/root/db/ua.html>) is Hostmaster company (www.hostmaster.ua), which has a corresponding accountability framework with ICANN (<https://www.icann.org/en/system/files/files/ua-icann-af-10feb15-en.pdf>).

There are 131 registrars in the domain .UA. Among them, 9 are from the European Union (4 - Germany, one each from Bulgaria, Cyprus, Czech Republic, France, Latvia), 3 from the USA and one from China. Four Ukrainian registrars are internationally accredited by ICANN. (<https://www.hostmaster.ua/registrars/>).

Foreign citizens or organisations don't have any limitations when registering .UA domain names. Only the trademark owner can register a second-level domain name that is the same as a TM. Registration of third-level domain names is carried out without any limitations in 62 public domains (<https://www.hostmaster.ua/2ld/>). Among them are 58 regional domains (kyiv.ua and kiev.ua - for the city of Kyiv and the Kyiv region, lutsk.ua and lt.ua - for the city of Lutsk) and 4 general purpose domains (com.ua, org.ua, net.ua and in.ua). There are also special domains gov.ua (for government organisations), edu.ua (for education organisations), mil.ua and dod.ua.

Number of registered domain names under .UA is 555 thousand (as at 01 April 2022, <https://www.hostmaster.ua/UAstat/2022/?202203>). Among them, there are 25,287 second-level names, 324,041 in the com.ua domain, 36,160 - in.ua, and a total of about 40 thousand names in the two domains of the Kyiv region kyiv.ua and kiev.ua.

Domain disputes in .UA can be resolved out-of-court in the WIPO arbitration and mediation centre (<https://www.wipo.int/amc/uk/domains/cctld/ua/index.html>).

The cost of domain names of the third level is approximately 10 euro, the second level is approximately 50 euro.

The IDN top-level domain with the cyrillic country code .YKP (UKR) works regardless of the .UA domain. The registry of .YKP is Technical Internet Center (TCI), LLC (<https://tci.net.ua/>). There are 16 registrars in the

domain (<http://uanic.net/spisok-akkreditovannyx-registratorov-domennyx-imen-v-domene-ukr/>).

Number of registered domain names under .YKP is 6,054 (<http://xn--80abvfvo.xn--j1amh/>). The cost of a domain name is about 12 euro.

F. Private sector

45. What is the rate of companies conducting e-business?

According to reports of the State Statistics Service of Ukraine 'Use of ICT at enterprises: e-commerce? big data analysis, specialists and skills in ICT, use of 3D-printing' and 'Use of ICT at enterprises: use of internet network, cloud compute services, robotics', the number of enterprises that carried out e-commerce in 2020 was 2494 enterprises, which is 4.9% of the total number of enterprises. The volume of sold products (goods, services) via e-commerce in 2020 was UAH 365 billion, which is 5.0% of the total volume of sold products (goods, services) of enterprises. Simultaneously, in 2021, the share of enterprises whose website provides the possibility of providing such interactive services as description of goods or services, information on prices for them was 31.0%, possibility to order or book online - 10.4%, tracking or checking the status of placed orders - 9.3%.

Additionally, EVO Group company conducted e-commerce research based on data from key marketplaces: Prom.ua, Bigl.ua, Crafta.ua, Shafa.ua, IZI.ua. According to EVO Group estimates, the e-commerce market in Ukraine in 2020 grew by 41% to UAH 107 billion. In total, it accounts for 9% of retail. It is forecasted for 2021 a growth of 28%, up to 137 billion UAH.

The most promising categories of e-commerce on Prom.ua based on EVO Group analysis are:

1. Agricultural products, machinery and equipment;
2. Industrial chemistry;
3. Pet products;
4. Food, beverages;
5. Construction;
6. Home and garden;
7. Tools.

46. Are there any incentives offered to companies using ICTs? What kind of incentives?

In February, a special project called Diia.City, aiming to develop the IT-industry, was launched in Ukraine. Diia.City provides a unique tax and legal space for IT businesses making it easier and less expensive to manage and operate IT- business.

Diia.City enables companies to run business openly, profitably and conveniently. It combines favourable tax conditions and effective tools that allow companies to build a transparent corporate structure, attract foreign investment more easily, and use additional mechanisms to protect intangible assets.

DIIA.CITY LEGISLATION

- Framework Law No. 1667-IX "On Stimulating the Development of the Digital Economy in Ukraine".
- Law No. 1946-IX "On amending the Tax Code of Ukraine to stimulate the development of the digital economy in Ukraine.

The main principles of Diia.City:

- admission on a voluntary basis;
- freedom of activity (all residents have a right to choose the forms of cooperation with third parties independently);
- non-interference of the state;
- presumption of legitimacy of residents' activity;
- stability (Diia.City will operate for at least 25 years);
- extraterritoriality — special framework will operate throughout the country

Components of the special framework:

- low tax rates;
- flexible employment conditions for IT specialists;
- guarantees on the IP rights protection;
- tools that facilitate access to investments.

TAXES

Taxes for employees of IT companies:

- 5% PIT;
- single social security contribution at 22% of minimum wage (approx. \$50);
- 1,5% military tax.

Corporate tax:

- 9% exit capital tax OR 18% income tax

Taxes stimulating the investments:

- 0% on individuals income in the form of dividends accrued by the resident company, subject to their payment not more than once every 2 years;
- tax rebate (with PIT) on the amount of investments in Ukrainian startups.

For resident companies, there will be restrictions on cooperation with individual entrepreneurs. Payments made in connection with the purchase of goods (services) from a single taxpayer (including individual entrepreneurs of the 3rd group) should not exceed 20%. For those companies paying the exit capital tax, amounts that exceed the limit will be subjected to exit capital tax at a rate of 9%. Income taxpayers will have to include it in the financial result.

If a resident company pays income tax, and its annual income limit does not exceed UAH 40 million, it will be able to work with individual entrepreneurs (individuals) without restrictions.

These restrictions will be fully operational only from 2025. Until then, there will be a three-year transition period: until 2024 - no restrictions, in 2024 - tax-free payments should not exceed 50%.

GIG-contracts — new form of employment

Each company at Diia.City can select the method of hiring employees that works best for them. Diia.City enables companies to hire talent as contractors (called individual entrepreneurs in Ukraine) or as ‘GIG’ workers, a classification available only in Diia.City.

GIG-contract is a civil law contract with flexible terms of cooperation. This is the innovation developed by the authors of Diia.City based on the concept of gig-economy.

Gig-contract provides both the benefits of freelancing and social security guarantees. This form will contain all the advantages of working within the flexible individual entrepreneur model, that is common in Ukraine and allows the IT sector to develop intensively. At the same time, companies will have tools that will ensure maximum comfort for both the employee and the company.

Tools for investments

Diia City introduces tools, well-known and effective all over the world, yet still not implemented in Ukraine.

It will increase the investment flow to Ukraine, including venture capital: Convertible loan, Option, Liquidation Preferences, Liquidated Damages, Warranties & Indemnities.

Intellectual property rights protection

Diia.City provides protection of IP rights for IT companies: property rights to computer programs and databases created as part of the workpiece will belong to the employer.

These incentives will make it possible to create **in Ukraine the most powerful IT hub** in Central and Eastern Europe. A large number of global IT companies will enter the Ukrainian market. Ukrainian specialists will benefit from this, because the demand for them will increase.

47. Can you provide indicators evaluating the value of the data economy, such as the data economy value as a percentage of the GDP, or the share of data market on ICT spending?22

According to the State Statistic Service of Ukraine, the amount of ICT spending in 2021 is UAH 246 bln (approx \$8,2 bln). The share of ICT is 4,5% of GDP in 2021. The IT-industry has increased two times per 3 years and has achieved \$6,8 bln by the end of 2021.

G. Digital services and online platforms

48. Please report on the alignment with the directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (Directive on Electronic Commerce).

The Law of Ukraine "On Electronic Commerce (E-Commerce)" dated 03 September 2015 No. 675-VIII (The Official Bulletin of the Verkhovna Rada of Ukraine (BVR), 2015, No. 45, Article 410; entered into force on 30 September 2015) transposes rules of the Directive 2000/31/EC of the European Parliament and of the Council of 08 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (Directive on Electronic Commerce).

The following is a link to the Final integrated report "On-site assessment of the EU - Ukraine Association Agreement commitments on electronic communications services", namely Annex 16 "E-commerce", which sets out the assessment of compliance of Ukrainian legislation with the Directive 2000/31/EC of the European Parliament and of the Council of 08 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (Directive on Electronic Commerce) (pages 264-278):

<https://drive.google.com/drive/u/0/folders/1V4ahiVt7nMJA1BxfcVM8cOBYclBAmsQy>

49. Is there legislation or other requirements specific to the provision of information society services (defined as any service normally provided for remuneration, at a distance, by electronic means and at the individual request of a recipient of services)?

The subject matter of the Law of Ukraine “On Electronic Commerce (E-Commerce)” dated 03 September 2015 No. 675-VIII (The Official Bulletin of the Verkhovna Rada of Ukraine (BVR), 2015, No. 45, Article 410) are electronic information services which pursuant to paragraph 9 of Article 2(1) of the Law are described as: “paid or free services for processing and storing information provided remotely using information and telecommunication systems at the individual request of the recipient”.

50. Please report on the alignment with Regulation (EU) 2018/302 of the European Parliament and of the Council of 28 February 2018 on addressing unjustified geo-blocking and other forms of discrimination based on customers' nationality, place of residence or place of establishment within the internal market and amending Regulations (EC) No 2006/2004 and (EU) 2017/2394 and Directive 2009/22/EC.

In August 2018, Ukraine submitted a Strategy on integration of Ukraine into the European Union Digital Single Market along with an Action Plan on the implementation of the Strategy of Ukraine’s Integration into the Digital Single Market of the European Union, both together referred to as the Roadmap.

According to the internal analysis of each legal act in the Roadmap, carried out by the European Commission, the Geo-blocking Regulation is not specifically related to telecommunication regulatory aspects, and therefore does not fall within the scope of the Telecom Annex.

In general, it must be noted that the application of the Geo-blocking Regulation is closely related to the functioning of EU internal market and relies on a wide array of other harmonised rules and related redress mechanisms that have been established in the EU (for e.g. concerning consumer protection, payment means, VAT, rules on jurisdiction).

In this regard, the Geo-blocking Regulation and actions for its implementation were included into the updated Digital Roadmap (updated during the AA Committee in Trade configuration in 2020 and actualized after the update of Appendix 17-3 to the AA in 2021). The implementation of the Geo-blocking Regulation is planned till the end of 2023.

Given the current absence of the internal market treatment in the telecommunications sector, the scope of implementation of this act in Ukraine requires additional consultations with the EU side.

51. Please report on the alignment with Regulation (EU) 2019/1150 of the European Parliament and of the Council of 20 June 2019 on promoting fairness and transparency for business users of online intermediation services? Which is the relevant authority responsible for its enforcement pursuant to Article 15 of this Regulation? Do you provide legal standing for representative bodies as per Article 14 of this Regulation?

The Government of Ukraine is getting prepared to align national legislation with the Digital Services Act - Proposal for a Regulation of the European Parliament and of the Council on a Single Market For Digital Services (Digital Services Act) and amending Directive 2000/31/EC. In this regard, the Government of Ukraine is currently preparing a legal analysis of the compliance of Ukrainian legislation with a Proposal for Digital Services Act. As of now, the Digital Services Act is expected for its finalisation according to the relevant procedure. The next step for the Government of Ukraine would be the development and adoption of a legal act that implements the provisions of the Digital Services Act.

It is planned that the above-mentioned legal act (to be developed) implementing the provisions of the Digital Services Act will transpose, inter alia, the provisions of Regulation (EU) 2019/1150 of the European Parliament and of the Council of 20 June 2019 on promoting fairness and transparency for business users of online intermediation services.

52. Please report on the alignment with the recently agreed Digital Markets Act - Proposal for a Regulation of the European Parliament and of the Council on contestable and fair markets in the digital sector (Digital Markets Act), COM/2020/842 final.

The Government of Ukraine was preparing for the adoption of the Digital Markets Act - Proposal for a Regulation of the European Parliament and of the Council on contestable and fair markets in the digital sector (Digital Markets Act).

In order to prepare, the Government of Ukraine is currently preparing a legal analysis of the compliance of the legislation of Ukraine with the Digital Markets Act Proposal and the mechanisms for implementation of its provisions.

In the process of preparation of the above analysis it is seen that:

Most of the provisions of the Digital Markets Act are intended to be applied not in individual countries, but within the European Union.

In particular, the criteria for designation of the gatekeepers include presence of the same core platform services in at least three Member States; mechanisms for identifying, designating and monitoring gatekeepers are implemented by the European Commission, acting as sole enforcer of the DMA, and not the Member States.

The fines provided for in the Digital Markets Act - up to 20% of the total turnover of the gatekeeper for the previous financial year are also calculated for application within the European Union and not in individual Member States and are applied by the European Commission.

The Digital Markets Act also stipulates that Member States should not impose additional obligations on gatekeepers by law or administrative action to ensure competitive and fair markets within the meaning of the Digital Markets Act (restrictions do not apply to other areas of law, including protection of competition, consumer rights).

The Digital Markets Act provides for close cooperation and coordination between the European Commission and the Member States in their law enforcement actions, in particular at the initiative of at least 3 countries, the European Commission is launching an investigation.

As Ukraine is not a member of the European Union, it will not be possible to initiate investigations or other law enforcement measures at this time.

Unlike European Union directives (which are binding on results and leave the choice of form and methods to national authorities), European Union regulations are binding in full and must be directly applicable in all Member States.

In light of the above mentioned reasons, the provisions of the Digital Markets Act Proposal cannot be implemented in its entirety, since Ukraine is not a Member State of the EU.

However, until the decisions regarding membership are taken, UA national authorities, including national competition authority, within the competence provided by law stand ready to assist and cooperate with the Commission.

53. Is there legislation or initiatives on the topics covered by the Digital Services Act - Proposal for a Regulation of the European Parliament and of the Council on a Single Market For Digital Services (Digital Services Act) and amending Directive 2000/31/EC (Text with EEA relevance), COM(2020) 825 final, 2020/0361 (COD).

The Government of Ukraine is getting prepared to align national legislation with the Digital Services Act - Proposal for a Regulation of the European Parliament and of the Council on a Single Market For Digital Services (Digital Services Act) and amending Directive 2000/31/EC. In this regard, the Government of Ukraine is currently preparing a legal analysis of the compliance of Ukrainian legislation with a Proposal for Digital Services Act. As of now, the Digital Services Act is expected for its finalisation according to the relevant procedure. The next step for the Government of Ukraine would be the development and adoption of a legal act that implements the provisions of the Digital Services Act.

54. Please detail the institutional setting related to digital services; i.e. which are the bodies responsible for supervision of digital services and how are they institutionally set up.

As stated in the answer to question 51 and 53 above, the next step for the Government of Ukraine after preparing the legal analysis of the compliance of Ukrainian legislation with the Digital Services Act Proposal and pending finalisation of the latter according to the relevant procedure would be the development and adoption of a legal act that implements the provisions of the Digital Services Act.

In this regard, the issue of determining the bodies responsible for supervision of digital services will be decided during the process of the development and adoption of a legal act that implements the provisions of the Digital Services Act. At present, the general framework is built on provisions of the Law of Ukraine “On Electronic Commerce (E-Commerce)” dated September 3, 2015 No. 675-VIII (see answer to question 48 above).

H. Electronic pay-services (conditional access — Directive 98/84/EC)

55. Has Ukraine ratified Convention 178 of the Council of Europe on the legal protection of services based on, or consisting of, conditional access?

Ukraine hasn't ratified Convention 178 of the Council of Europe on the legal protection of services based on, or consisting of, conditional access.

56. Has Ukraine ratified Convention 185 of the Council of Europe on cybercrime?

Convention 185 of the Council of Europe on cybercrime has been ratified with reservations and statements by adopting the Law of Ukraine № 2824-IV "On Ratification of the Convention on Cybercrime" as of 07 September 2005. This Law is incorporated in the Criminal Code of Ukraine and Criminal Procedure Code of Ukraine.

57. What kind of protection is provided to protect the remuneration of providers of services protected by conditional access?

Currently, the issues of protection of remuneration of service providers protected by conditional access are regulated at the level of the Labor Code of Ukraine.

58. Do you consider that this protection conforms to Directive 98/84/EC?

Currently, the Verkhovna Rada of Ukraine has registered a draft Law of Ukraine № 5870 dated 27 August 2021 "On protection of services provided using the conditional access system", which in case of its adoption will fully comply with Directive 98/84/EC, the Association Agreement between Ukraine, on the one hand, and European Union, the European Atomic Energy Community, and their Member States, of the other hand, ratified by the Law of Ukraine of 16 September 2014 № 1678-VII and the Action Plan for the Implementation of the Association Agreement between Ukraine, of the one hand, and European Union, The European Atomic Energy Community, and their Member States, on the other hand, approved by the Decree of the Cabinet of Ministers of Ukraine of 25 October 2017 № 1106.

I. Electronic identification and trust services for electronic transactions

59. Please report on the alignment with the Regulation (EU) on electronic identification and trust services for electronic transactions in the internal market 910/2014 EC.

Ukrainian legislation in the field of trust services and electronic identification is aligned with Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC.

In particular, the Law of Ukraine "On Electronic Trust Services" was adopted in 2017 and amended in 2020 based on a legal framework EU compliance report and recommendations provided by EU experts. English translation of the Law is available using the link: <https://bit.ly/3KtOdoK>

Basic law establishing legal validity of electronic documents and basic principles for e-document exchange is the Law of Ukraine "On electronic documents and e-document flow".

There are a number of secondary legal acts that were adopted in order to bring to effect provisions of the Law. The list and English translation of some acts are available using the link: <https://www.czo.gov.ua/normative-documentation>

In particular, formats of advanced electronic signatures and advanced seals to be recognised by public sector bodies are in compliance with eIDAS Regulation and reflected in Commission Implementing Decision (EU) 2015/1506 of 08 September 2015 by Cabinet of Ministers of Ukraine Resolution dated 07 November 2018 № 992 "Approval of requirements in the area of electronic trust services and the Procedure for assessing compliance with the legislation in the area of electronic trust services" (English translation is available using the link: <https://bit.ly/3v8TxHK>). This regulation stipulates description of requirements (organisational, methodological, technical and technological) that must be met by a qualified trust service provider and procedure for supervision of QTSP.

Technical specifications and formats relating to trusted lists are aligned with Commission Implementing Decision (EU) 2015/1505 of 08 September 2015 by Cabinet of Ministers of Ukraine Resolution dated of 26 September 2018 № 775 "Approval of mandatory requirements for the Trusted List" (English translation is available using the link: <https://bit.ly/3xek74T>).

Standards for the security assessment of qualified signature and seal creation devices are aligned with Commission Implementing Decision (EU)2016/650 of 25 April 2016 by Administration of the State Service for Special Communications and Information Protection of Ukraine Order of 14 May 2020 № 269 "On establishing security and information protection requirements for qualified electronic trust service providers and their separate registration points", Registered at the Ministry Justice of Ukraine 16 July, 2020 under № 668/34951 (English translation is available using the link: <https://bit.ly/3LKe24a>)

Resolution of Cabinet of Ministers of Ukraine dated 18 December 2018 № 1215 "Approval of the Procedure for Conformity Assessment in the Field of Electronic Trust Services" establishes the framework for the conformity assessment of QTSP/QTS taking into account ISO/IEC 17065 framework, supplemented by ETSI EN 319 403-1 for the assessment of conformity with criteria that meet the eIDAS requirements. English translation is available using the link: <https://bit.ly/3JRv2UP>

Procedure for recognition of foreign qualified trust services, including requirements to the international agreement is described in the Resolution of the Cabinet of Ministers of Ukraine dated 23 January 2019 № 60, English translation is available using the link: <https://bit.ly/37qOXg3> .

In terms of practical implementation, the trusted list is fully operational and maintained by the Ministry of digital Transformation of Ukraine (<https://www.czo.gov.ua/trustedlist>).

There is an online portal for free of charge signature creation and validation maintained by the Ministry of Digital Transformation of Ukraine. All signature formats (CADES, XADES, and PADES) and ASIC-e containers are supported at the portal: <https://id.gov.ua/sign> and <https://id.gov.ua/verify>.

The technical implementation of Ukrainian electronic signatures has been successfully tested together with Estonia within the framework of the EU4Digital Cross-border eSignature pilot project. An EU qualified electronic signature trust service provider has completed integration of a UA signature creation device into its portal. During the second iteration of the pilot project, the technical interoperability of electronic signatures was also achieved with the EU's Eastern Partnership countries.

There is also an integrated electronic identification portal, where all types of eID means available in Ukraine are supported. The portal provides for easy integration with third parties, including online public service providers. The portal is free of charge for all kinds of users. Integration with governmental authorities' information systems is free of charge as well.

In 2020, a secure eID solution for all Ukrainians was developed with the help of governmental Diia mobile app and portal. It provides a possibility for all users of the app to create remotely their digital ID, authenticate the person's identity connected with its digital signature for public services access. There are around 17 million active users of the Diia app, that could use such a solution.

To reach mutual recognition of qualified trust services between Ukraine and the EU, cooperation is coordinated under the Joint Working Plan for cooperation between the EU and Ukraine on electronic trust services with a view to a possible agreement based on approximation to the EU legislation and standards.

In order to implement this Joint Working Plan, a checklist (eIDAS Article 14 Assessment Check-List) was received from the EU, on the basis of which a self-assessment was done by the UA side. In addition, the international expert of the EU funded EU4DigitalUA project conducted an assessment of the legislation in the field of electronic trust services in Ukraine on the basis of the Pilot for the International Compatibility of Trust Services presented by the European Commission and the relevant checklist. We are currently awaiting a formal EU expert mission to assess compliance of Ukrainian legislation with the requirements of EU law, which will allow us to continue the timely implementation of obligations under the Joint Work Plan. Thus, we are approaching the prospect of concluding an agreement on mutual recognition of electronic trust services, which should be based on approximation to EU legislation and standards.

60. Which national schemes exist, including the means, for electronic identification and authentication for accessing online public services. Please provide the applicable law(s) and regulation(s)

The basic law governing procedures for electronic identification is the Law of Ukraine on Electronic Trust Services. Currently, Ukraine has the following schemes of electronic identification in operation:

- **ID Card with qualified certificate:**
 - The Migration service of Ukraine is responsible for managing the scheme.
 - The ID card is implanted with contactless electronic media that meets the requirements of the ISO / IEC 14443 standard for data recording and reading.
 - The contactless electronic media contains information indicated on the front and back of the ID card (all data included in the minimum data set of identification data and additional information regarding date and place of birth, passport number and its validity period and code of authority that issued the document), biometric data, face parameters (digitised face image, digitised signature), as well as data to ensure the protection of information entered on contactless electronic media.
 - identification of a person on registration is done by authorised and trained personnel, upon physical presence of the user by verifying identification data that uniquely identifies him / her (surname, name, patronymic (if any), unique entry number in the Unified State Demographic Register, registration number of the taxpayer's registration card (if available), as well as information about the place registration) and contained in the documents submitted by him/her;

- Personnel responsible for identification of users are liable for damage and infringement of their obligations according to the law;
- Means of eID of the ID card provides for:
 - Generation of private and public key in the protected area of memory of the contactless electronic media;
 - the ability to store in a protected area at least five pairs of private keys, which are used to create and verify a qualified electronic signature and for the encryption protocol;
 - protection against unauthorised access to cryptographic material (such functions are enabled after entering PIN2 by user);
 - impossibility of direct acquaintance with the value of parameters of private keys and their copying.
- The request for the generation of qualified electronic signature and encryption key certificates contains the relevant public keys obtained during the generation of key pairs and is generated in accordance with international guidelines for interoperability of qualified electronic signature system RFC 2986 "PKCS # 10: Certification Request Syntax Specification"
- Voice authentication by keyword is performed by the Provider's registration administrator or remote administrator in cases of application for blocking of a qualified certificate orally.
- Electronic authentication using cryptographic information protection algorithms is used in case of filing in an e-application to block or revoke a qualified certificate in electronic form for users who still have a valid qualified certificate;
- **DiiaID scheme with the use of remote identification and remote storage of cryptographic material;**
 - The Ministry of Digital Transformation of Ukraine and the State enterprise Diia are responsible for the scheme
 - The private key is generated using the Diia Portal's mobile application. Storage of users' private keys is done on device via hardware and software integral solution using a separate, specially designed storage of a qualified provider of electronic trust services
 - Persons who have obtained an ID card or biometric passport of a citizen of Ukraine for travel abroad, or a permanent residence permit or a temporary residence permit, may at their own request obtain the remote qualified electronic signature "Diia ID" using the mobile application Diia, provided that the relevant passport is valid. During the generation of a qualified certificate of electronic signature "Diia ID" remote identification of the user is carried out by the State enterprise Diia by performing a set of the following procedures:
 - verification of a person using information from the Unified State Demographic Register on the basis of a request from the mobile application Diia, which contains information that uniquely identifies a person. The request is formed on the basis of identification data of the person transferred to the mobile application Diia using the BankID System of the National Bank of Ukraine

or reading contactless electronic media implanted in the person's document (eg ID card) through the NFC on mobile application Diia by the user himself;

- verification of the authenticity of identification documents issued to a person is done using information from the Unified State Demographic Register and a database of stolen (lost) documents;

- recognition of a person's face by comparing a photo of a person created by him with the mobile application Diia, with a digitised image of the person, transferred from the Unified State Demographic Register to the mobile application Diia (subject to unambiguous consent to the processing of personal data specifically for transmission of the digitised image of the face) or read by the NFC by the person himself. Face recognition is carried out by means of the mobile application Diia, provided that a successful recognition is carried out in the absence of an attack on the biometric presentation and third-party influence on the person;

- use of additional mechanisms to confirm the person, provided by the CPS of State enterprise Diia.

- **Qualified electronic signature (QES) by qualified electronic trust service providers (QTSP);**

- QTSP that are listed in UA Trust List are managing the scheme. Qualified electronic signatures can be used for electronic identification of the users, therefore this is a de-facto scheme of electronic identification.

- QTSP manages the correct implementation of the registration processes and the collection of correct identification data for each unique user. All the procedures applicable are documented and published in the Certificate Practice Statement and Certificate Policy.

- Identification of a natural person who applies for a qualified certificate is conducted upon his physical presence and demonstration of identity documents that prevent any doubts about the person, like identity cards.

- Revocation of certificate may be done by voice authentication, according to the key phrase, that was documented during the initial registration process

- If a user has a currently active certificate, he/she can use it for identification and generation of a new key pair.

- Means for QES that were certified and approved by the Supervisory Body to generate a key are following:

- USB/Bluetooth tokens

- Smart-cards

- Sim cards

- HSM modules with remote storage of private key by the QTSP.

- Authentication of the signatory and his / her authority is based on the results of verification of the qualified electronic signature and establishment of validity at the time of submission of the application of the key certificate containing the identity data of the person.

- QTSP is liable for all damage caused. All the providers are required to have either a bank deposit or an insurance arrangement to cover the damage

- **BankID of the National bank of Ukraine.**

- National Bank of Ukraine is responsible for the management of the scheme
- Subscriber-Identifier (a bank of Ukraine that participates in the BankID scheme) performs the functions of identification, authentication and verification of users of its bank who are users of the BankID System.

- The Subscriber-Identifier is obliged to ensure the completeness, reliability and relevance of electronic confirmations of electronic identification of users.

- The Subscriber-Identifier is obliged to perform multi-factor authentication of the user for each electronic request for electronic remote identification before the transfer of personal data of such user through the BankID System of the National Bank.

- The Subscriber-Identifier has the right to provide electronic confirmation of electronic remote identification only for users who are clients of the Subscriber-Identifier and have a valid contractual relationship with him.

- The Subscriber-Identifier must ensure that the user gives consent to the transfer of personal data during authentication or in any other way that allows the user to conclude that such consent was given by the user.

- The Subscriber-Identifier is obliged to sign/seal each electronic confirmation of electronic remote identification of its users.

The above e-identification schemes are connected to the Integrated Electronic Identification System designed for guaranteeing a secure, accessible and user-friendly electronic identification and authentication for system users, compatibility and integration of e-identification schemes, their interaction with official websites (web portals), information systems maintained by public administrations, local self-governance bodies, legal entities and individual entrepreneurs, as well as assurance of information and personal data protection with the use of unique requirements, formats, protocols and classifiers.

61. Please detail the applicable law(s) and regulation(s) and the institutional setting related to electronic trust services, as defined in Regulation 910/2014. Which are the bodies responsible for supervision of trust service providers and the services they provide (including information on accreditation schemes) and those designated for the conformity assessment of Qualified electronic signature and seal creation devices.

There are three bodies stipulated by the Law on Trust Services that are involved in and responsible for regulations and executions of Trust Services and eID in Ukraine.

Central Certification Authority (CCA) report to Ministry of Digital Transformation of Ukraine is entrusted with powers and responsibilities to initiate legislations / set state policies / run and maintain Trusted List / liaison with Qualified Trust Service Providers and with Trust Service

Providers / determine the standards / ensure the standards are met / deal on the matter of international cooperation in the field of trust services.

State Service of Special Communications and Connection of Ukraine (SSSCCU) – responsible for supervision and control in matters related to Trust Services and eID.

In particular, SSSCU has powers to carry out inspections of Qualified Trust Service Providers (QTSP). All QTSP are subject to supervision by SSSCCU. Powers are given below. All trust service providers, before granting qualified status, must conduct either an audit by an accredited conformity assessment body or state examination in the field of cryptographic information protection. As of now there is no accredited conformity assessment body, therefore trust service providers are conducting state examinations in the field of cryptographic information protection. Examination is performed on a contractual basis and is carried out by independent expert institutions.

SSSCU approval needed in matters related to security and therefore linked to nearly all aspects of operation and governance of Trust Services and eID, it also involved in international treaties, technical aspects of standardisation of equipment used in Trusted Services and eID provisions, certification and approval of conformity assessment laboratories. (Laboratories are indeed accredited by the NATIONAL ACCREDITATION AGENCY OF UKRAINE in accordance with the requirements of EN ISO / IEC 17025: 2019 (EN ISO / IEC 17025: 2017, IDT; ISO / IEC 17025: 2017, IDT) in the field of: cryptographic testing of products for compliance with and technical protection of information). Until there is no conformity assessment body, SSSCCU is responsible for the attestation of the expert institutions who are conducting state examinations in the field of cryptographic information protection.

There are ongoing activities to establish a conformity assessment taking into account the ISO/IEC 17065 framework, supplemented by ETSI EN 319 403-1 for the assessment of conformity with criteria that meet the eIDAS requirements. In particular, the first part of training was already conducted by the EU auditors, accredited as a conformity assessment body.

It makes the SSSCU the major stakeholder in the area of Trusted Services and eID of Ukraine.

Therefore, functions of the Supervisory Body are described in EU eIDAS Reg. are split between CCA (Ministry of Digital Transformation) and SSSCCU in Ukraine. All the documentation is submitted to MiDigit, if it is complete, correct and in line with requirements – qualified status is granted.

Here are some selected powers for background knowledge, for detailed information please consult the Law of Ukraine On Trust Services CCA (MinDigit) is in charge of:

- provision of administrative services by inserting legal entities and natural persons - entrepreneurs who intend to provide electronic trust services to the Trusted List;
- the operation of the software and hardware system of the central certification authority and the protection of the information handled therein, in accordance with the requirements of the legislation;
- the operation of the website of the central certification authority;
- the maintaining of the Trusted List;
- the maintaining of the registry of the valid, blocked and cancelled certificates for public keys;

- the generation of key pairs and creating self-signed qualified certificates for an electronic seal of the central validation authority;
- the provision of the qualified electronic trust services using a self-signed certificate for an electronic seal of the central certification authority intended for the provision of such services;
- the provision of the service of providing accurate time signals synchronised with the State standard of time and frequency;
- the coordination of the procedures, prepared by the providers of electronic trust services, of synchronising the time with Coordinated Universal Time (UTC);
- the coordination of the plans of termination of the activities by the qualified providers of electronic trust services;
- the obtaining and storage of the documented information, the created qualified certificates for public keys, the registry of the valid, blocked and cancelled qualified certificates for public keys, in the event of termination of the activities by the qualified provider of electronic trust services;
- the notification of the supervisory authority of the circumstances that interfere with the activities of the central validation authority;
- the round-the-clock access to the registry of the valid, blocked and cancelled certificates for public keys and to the information on the status of the certificates for public keys via public telecommunication networks;
- the revocation, blocking and renewal of the qualified certificates for public keys in the cases prescribed by this Law;

State service of special communication and connection (SSSCC) powers are:

- state control over the compliance with the requirements of the legislation in the field of electronic trust services;
- approving the rules of procedure of the central certification authority, the validation centre and the legal persons, individual entrepreneurs intending to provide electronic trust services;
- interaction with the central certification authority and the conformity assessment authorities on the matters of state supervision (control) over the compliance with the requirements of the legislation in the field of electronic trust services;
- cooperation with the bodies on the matters of personal data protection by way of notifying violations of the legislation in the field of personal data protection detected when carrying out inspections by the supervisory authority of the qualified providers of electronic trust services;
- analysis of the documents on conformity based on the results of carrying out conformity assessment procedures of the qualified providers of electronic trust services;
- issuing instructions concerning the removal of violations of the requirements of the legislation in the field of electronic trust services;
- imposition of administrative fines for the violation of the requirements of the legislation in the field of electronic trust services;

For instance, if during the inspection of the QTSP exercised by SSSCC, they find existing significant shortcomings, irregularities or violations, that is a ground for lifting qualified status, then SSSCC sends a motion to the MinDigit requesting amend the Trusted List and withdraw qualified statues based on the results of the inspection of compliance with the requirements in the field of electronic trust services. Prior to change the status of TSP, if possible to eliminate the shortcomings or irregularities, MinDigit make efforts asking TSP to make it.

National Bank of Ukraine (NBU) – is Ukraine's Central Bank. The legal status of NBU and the principles of its organisation and activities are determined by Law of Ukraine "On the National Bank of Ukraine" the main function of the country's central bank is to ensure stability of the monetary unit – the Hryvnia. To carry out its main function, the National Bank ensures the stability of the banking system. In regards to Trusted Services and eID, the Law 2155-VIII gives NBU powers to regulate and control all aspects linked and related to Trusted Services and eID provisions in the banking sector.

The NBU, in fulfilment of the powers defined by the Law of Ukraine "On Electronic Trust Services" No. 2155-VIII dated 05 October 2017 approved a number of normative acts in the field of electronic trust services and electronic identification:

- Regulation On the Electronic Signature and Electronic Seals in the Banking System of Ukraine approved by NBU Board Resolution No. 78 dated 14 August 2017 (as amended);

- Regulation On the Qualified Electronic Trust Service Providers Included to the Trust List upon the Submission of the Certification Authority approved by NBU Board Resolution No. 116 dated 19 September 2019;

- Regulation On the Time Synchronisation in the Hardware-Software Complex of the Qualified Electronic Trust Service Providers Included to the Trust List upon the Submission of the Certification Authority approved by NBU Board Resolution No.153 dated 24 December 2019;

- Rules of Document Transfer to the Certification Authority by the Qualified Electronic Trust Service Providers Included to the Trust List upon the Submission of the Certification Authority approved by NBU Board Resolution No. 19 dated 17 February 2020;

- Regulation On Control Over Bank Compliance with the Requirements of the Legislation on Information Security, Cybersecurity, and Electronic Trust Services approved by NBU Board Resolution No. 4 dated 16 January 2021;

- Regulation On the BankID System the National Bank of Ukraine approved by NBU Board Resolution No. 32 dated 17 March 2020 (as amended).

At the end of 2021, the NBU and seven banks of Ukraine were Qualified Trust Service Providers. The number of their clients was about 5 million, and the number of qualified electronic signatures created by these clients in 2021 was more than 2 billion. Within its powers, the NBU carries out state regulation and supervision of their activities.

Conformity assessment of qualified electronic signatures and seals creation devices In accordance with the requirements of part three of Article 30 of EU Regulation 910/2014, the evaluation of the compliance of qualified electronic signature or seal devices shall be carried out **as part of certification by appropriate public or private bodies**, based on one of these processes

(a) security evaluation process mandated by one of the standards for security evaluation of information products included in the list developed according to the other paragraph; or

(b) process other than the process described in paragraph (a), provided that this process uses the comparable security levels and the state or private body listed in Part 1 notifies the Commission of that process. This process may be used only in the absence of the standards referred to in the first paragraph, or when the safety assessment process referred to in the first paragraph is adopted on the permanent basis.

Currently, the Ukrainian legislation establishes these requirements for the evaluation of qualified electronic signatures and seals.

According to part three of Article 19 of the Law of Ukraine "On Electronic Trust Services", the compliance of the means of qualified electronic signature or seal with the established requirements is confirmed **by the documents of compliance or positive expert opinions on the results of their state expertise in the field of cryptographic protection of information.**

However, Article 8 of the Law of Ukraine "On Protection of Information in ICT Systems" establishes that to create a comprehensive system of protection of public information resources or information with limited access, the request for protection of which is established by law, cryptographic information security devices that have a positive expert opinion on the results of state expertise in the field of cryptographic protection of information must be used.

At this time in Ukraine the actual assessment of the compliance of qualified electronic signatures and seals with the established requirements is carried out only within the framework of state expertise in the field of cryptographic protection of information.

Regulations on State expertise in the field of cryptographic protection of information, approved by Decree of the Ministry of Special Communications Service of Ukraine from 23.06.2008 № 100 (registered by the Ministry of Justice of Ukraine 16 February 2008 № 651/15342).

J. Accountability and cooperation

62. How is the accountability of the relevant authorities in this area ensured?

The Ministry of Digital Transformation of Ukraine (MinDigital) is the central executive body, its activities are directed and coordinated by the Cabinet of Ministers of Ukraine.

The MinDigital is the main body in the system of central executive bodies that ensures the formation and implementation of state policy: in the areas of digitalization, digital development, digital economy, digital innovation and technology, e-government and e-democracy, information society development, informatization; in the field of electronic document management; in the field of digital skills development and digital rights of citizens; in the areas of open data, development of national electronic information resources and interoperability, development of broadband Internet and telecommunications infrastructure, e-commerce and business; in the field of electronic and administrative services; in the areas of electronic trust services and electronic identification; in the field of IT industry development; in the field of development and functioning of the legal regime Diia.City.

The MinDigital is guided by the Constitution and laws of Ukraine, decrees of the President of Ukraine and resolutions of the Verkhovna Rada of Ukraine adopted in accordance with the Constitution and laws of Ukraine, acts of the Cabinet of Ministers of Ukraine and other legislation.

The Minister, in particular: determines the priority areas of the Ministry and the ways of fulfilling its tasks, approves plans of the Ministry, reports on their implementation, organises and monitors within its powers the implementation of the Constitution and laws of Ukraine, acts of the President of Ukraine and the Cabinet of Ministers.

The Ministry is reporting to the Cabinet of Ministers of Ukraine, accountable to and under its control. Parliamentary (Rada) control is also ensured via dedicated Committee of Digital Transformation.

The National Commission for the State Regulation of Electronic Communications, Radio Frequency Spectrum and the Provision of Postal Services (NCEC) is a central body of executive power with a special status that is formed by the Cabinet of Ministers of Ukraine. NCEC carries out state regulation, state supervision (control) in order to achieve a balance of interests of users, state, economic entities carrying out activities in the field of electronic communications, radio frequency spectrum and postal services, ensures the security of electronic communications, development of competition, integration of Ukrainian markets in these areas into the markets of the European Union. The NCEC acts independently within the limits established by law.

Administration of the State Service of Special Communications and Information Protection of Ukraine (SSSCIP) – a central body of executive power with a special status, the activity of which is directed and coordinated by the Cabinet of Ministers of Ukraine and ensures formation and implementation of the state policy in the fields of organisation of special communication, information protection, cyber protection of telecommunications and use of radio-frequency resource of Ukraine.

However, on 09 February 2022, the Cabinet of Ministers of Ukraine adopted a resolution regarding reform of central executive body in the fields of electronic communications and radio frequency spectrum according to the new Law on Electronic Communications. As follows, the administration of the State Service for Special Communications and Information Protection shall ensure the exercise of the powers of the central executive body in the field of electronic communications and radio frequency spectrum until 30 June 2022. The Ministry of Digital Transformation shall become the central executive body in the field of electronic communications and radio frequency spectrum from 01 July 2022.

After this reform the main task of SSSCIP will be to provide government and special, courier communications, in accordance with the focus of the SSSCIP on ensuring the national security of Ukraine and staying in the security and defence sector of Ukraine.

Cybercenter UA30 is part of the State Service of Special Communications and Information Protection of Ukraine. It is the newest state centre for responding to cyber incidents, acquiring skills and knowledge in the field of cybersecurity.

63. Has a contact point been appointed (in the Ministry, regulatory authority, and other authorities if NR relevant) to cooperate with authorities in other European countries?

Within the Ministry of Digital Transformation, the Directorate for European Integration is responsible for enhancing cooperation with the European Union and its Member States.

K. Digital literacy, skills and advanced competences

64. Does Ukraine have/foresee a digital skills policy to ensure its people are equipped for the digital transformation of the economy and society?

Yes. On 03 March 2021 The Cabinet of Ministers of Ukraine approved the Concept of Development of Digital Competences and the action plan for its implementation. Also there are more than 14 regional Concepts of Development of Digital Competences from some regions, cities and amalgamated territorial communities. The concept is designed to make the use of state electronic services more understandable, safe and accessible to every resident, to promote effective community management, and the personal development of the region's residents in the digital society.

65. What are the main measures to encourage acquiring digital skills (in schools, but also for employees in the private and public sector)?

During the existence of national project Diia.Digital Education we provided a lot of media-campaigns that helped people get knowledge about digital literacy and took part in it. The total coverage of the communication campaign only for the first three months reached out more than 5,2 million people. The total coverage of the communication campaign for the whole period amounted to 20 million people.

In 2021 the Ministry of Digital transformation organised All-Digital Week.

Also, we have 2 social commercials (advertising) dedicated to digital literacy, a large pool of creatives, visuals, and promotional videos about the digital component. In addition, we hold various competitions at the national level, such as the Month of digital literacy, which includes stars and celebrities of Ukraine, and conduct promotional campaigns on social networks like Facebook, Instagram, Tik-Tok, etc., and offline-activities. Also, we have a number of educational materials in traditional and online media about different referral topics like cyber hygiene, content creative, using technologies and digital literacy in common.

Also, national test of digital literacy – Digigram wildly used by Ukrainian citizens as an addition plus to their CV, because most ukrainian employers take this certificate with a level of digital literacy into account when hiring the candidates to specific works. The project also works with top recruitment agencies such as Work.Ua, Rabota.Ua and Jooble, which also promote Digigram and digital literacy.

There are 4 types of Digigram: for citizens, for public servants, for teachers, for healthcare workers. The tasks of the test are systematised according to the areas of knowledge of the European framework of digital competencies DigComp 2.1., adapted by Ukrainian experts. Depending on the type, the test contains from 63 to 90 questions and takes 30-40 min. After completing the test, each participant receives an electronic certificate, which certifies the general level of digital literacy, the total number of points scored, as well as the number of points in each area of competence. The test uses standardised technologies. A criterion-oriented type is an established measurement. The testing procedure is regulated, with unified instructions, as well as means of registration of results, their processing and storage. The basis of this tool was the Digital Framework competencies for citizens of Ukraine, which according to the results research in this field was created by Ukrainians experts on

the basis of the European conceptual and reference Digital Competence Framework for EU Citizens (DigComp 2.1.)

Information and digital competence is one of the key competencies according to the New Ukrainian School concept.

Ukraine actively advocates the development of digital competences of educators and students both at the regulatory and organisational levels.

The state educational policy in secondary education institutions of Ukraine generally contributes to the process of digitalization of education and society.

The state educational policy in secondary education institutions is conducted according to the concept of the New Ukrainian School which is determined by the State Standard of Primary Education (2018) and the State Standard of Basic Secondary Education (2020). In these documents, computer science and digital competences are recognized as one of the key competencies for students, the acquisition of which is aimed at primary and basic secondary education in Ukraine.

The field of computer science is recognised as one of top 9, which are defined by state standards and aims to develop the student's personality, ability to use digital tools and technologies to solve problems, personal development, creative self-expression, personal and social well-being, critical thinking, safe and secure, act responsibly in the information society.

For example, in the new State Standard of Basic Secondary Education, adopted in 2020, there is a computer science (informatics) field of study. It is compiled according to the Digital Competence Framework for Citizens, taking into account national approaches to teaching it as a separate subject. Each of these competences is developed throughout all levels of education, so students have a chance to improve their digital proficiency according to their age group.

Teaching of computer science in schools is aimed at the formation of students' digital competence, which begins in the 2nd grade. And during the first two years of study (in the 2nd and 3rd grades) this subject is integrated into the course "I explore the world". From the 4th to the 9th grades the subject "Computer Science" is studied as a separate one. Senior students (10-11th grades) study basic subjects and elective courses (4 subjects), including the subject "Computer Science". Each secondary school chooses 2 subjects from the list of optional ones.

The teachers' professional standards also provide requirements for information and digital competence. In 2021, the professional standard of the head (director) of general secondary education was approved, providing requirements for digital competences.

The issue of developing digital skills of teachers became especially relevant during the Covid-19 pandemic. Ukraine jointly with the involved development partners responded to the problem in a timely and high-quality manner. During 2020-2021, a large number of trainings and courses on various topics were organised for more than 45,000 educators. The following topics were covered by educators during these trainings: effective Google for Education solutions for cloud interaction; digital education for teachers: Microsoft's tools for distance learning; digital skills for teachers; general principles and tools of distance learning; methods of distance learning of general secondary education students of different ages; organisation of safe online learning; etc.

Also with the support of partners and experts, manuals on methods of organising distance and hybrid learning at different levels of education have been developed.

In April-May 2021, a pilot implementation of the online tool SELFIE took place in Ukraine. 60 general secondary education institutions and 30 vocational education institutions from 10 regions of the country were evaluated. An interactive results-based report was prepared which may help the management of the institution to identify digital strengths and weaknesses. The SELFIE digital readiness of educational institutions was assessed in 8 main areas, including: the institution's infrastructure, digital skills of students and teachers, the effectiveness of various forms and methods of teaching, digital technologies for assessment, personalization of learning and so on.

According to the report, the least developed areas (those in need of improvement) are following: the introduction of digital technologies in the classroom (53%), infrastructure development (53.3%) and the practice of assessment using digital technologies (55.1%).

In December 2021, the Ministry of Education and Science of Ukraine approved the typical program for professional development of teachers' digital competence. The purpose of the program is to increase the level of competence of teachers, as well as preparation for further work in the context of digitalization and the 'European vector' of development in the following areas:

digitalization of society and education;

digital technologies for professional development, communication and cooperation;

electronic educational resources;

use of information and communication technologies;

information protection and cyber security in the information society and digital educational environment;

digital services for learning, evaluating the results of students and improving their digital competence.

66. What is its budget, targets and timeline? What are the main funding sources for acquiring and improving digital skills?

The national project Diia.Digital Education was launched in 2020 with the goal to teach 6 million Ukrainians digital literacy in 3 years. Before this we already had intermediate results (2019) on the improvement of digital literacy, based on 2 measurements. See more information here: https://osvita.diia.gov.ua/uploads/0/588-the_first_in_the_history_of_ukraine_research_compressed.pdf, and in 2021, using the link: https://osvita.diia.gov.ua/uploads/0/2623-research_eng_2021.pdf.

According to the results of the first nationwide survey of digital skills of the population conducted in 2019, 53.0% of the population of Ukraine had digital skills below the "basic level" (according to the methodology of digital skills assessment used by the European Commission). A repeat survey held in 2021 showed a gradual increase in the level of digital skills. Hence, the share of Ukrainians whose digital skills are below the "basic level" has decreased by 5.2% or by 1.42 million people and now stands at 47.8%. At the same time, the share of Ukrainians who do not have any digital skills ("No skills") decreased by 4% or by 1.09 million people.

Compared with 2019, communication and information skills remain more developed. 79.2% Communication skills are above basic level 78.9% Information skills are above basic level at the

same time, the following skills still remain "underdeveloped": 55.8% Skills of solving life problems - above basic level 36.8% Digital content creation skills - above basic level

Budget: In 2021 we have support from the state budget. But all other funding was provided by other partners - Ukrainian and international donors and foundations, also bit by private partners -ICT industry stakeholders.

Target audience: all citizens of Ukraine, with an emphasis on the older age audience, whose digital skills are the weakest. The project Diia.Digital Education has different educational products for different audiences - schoolchildren, students, teachers, parents, adults, elderly people, etc. Each of the 75+ products is designed for a specific audience.

Timeline – we have developed the Concept of Development of Digital Competences and work on approval of the action plan for its implementation till 2025. The main target of the project Diia.Digital Education is to reach 6+ mln digitally skilled ukrainians by the year 2024.

67. What measures are in place to implement it?

National project Diia.Digital Education includes 3 parts:

1. National educational online platform: Diia.Digital education - launched on 21 January 2020 and have

1 280 000 registered students on 20/04/2022, more than 4 millions – visited the site that include:

1) Educational videos: new format of educational training with combines learning and entertainment. Each video set is targeted to a specific target audience and includes experts + influencers or celebrities which are well-known to the public. Each series is done in a format of micro-learning and stop-lessons. In the end students can pass the test and get the certificate. Now we have 75+ educational series and the quantity is growing every month <https://osvita.diia.gov.ua/en/courses> We also plan to launch the first series totally based on algorithms of machine learning and artificial intelligence till the end of this year to help people create personalised educational paths. Also from 2022 here is also available a new format of learning: audio podcasts.

2) National Tests for Digital Literacy to measure the level of knowledge and skills in a real-time format among different segments of target audience - Digigram - <https://osvita.diia.gov.ua/en/digigram>

There are 4 types of Digigram: for citizens, for public servants, for teachers, for healthcare workers. The tasks of the test are systematised according to the areas of knowledge of the European framework of digital competencies DigComp 2.1., Adapted by Ukrainian experts. Depending on the type, the test contains from 63 to 90 questions and takes 30-40 min. After completing the test, each participant receives an electronic certificate, which certifies the general level of digital literacy, the total number of points scored, as well as the number of points in each area of competence. The test contains 3 basic and 6 levels of digital literacy. Now we have 5 versions of the Digigram test: Digigram for citizens 1.0 and Digigram for citizens 2.0. Digigram for Teachers, Digigram for Civil Servants and Digigram for Medical workers.

2. Second part of project Diia.Digital Educational is offline HUBs of digital literacy – out of more than 6,200 points (as of February 23, 2022), where everyone can access the computer offline

and learn to work online. Digital hubs are available to people. They can provide a computer / laptop / tablet. The hubs also have relevant staff who have received basic training for digital literacy trainers and can answer questions from digital users.

3. Third part of Diia.Digital Education project is an All-Ukrainian school online - a modern online resource for teaching students of 5-11 grades and methodological support for teachers. The platform contains lessons on 18 basic subjects, built on the principle of microlearning. All training materials have passed 8 levels of testing and meet state standards. 400 000 registered students.

So we propose a wide spectrum of educational possibilities through the online educational serials, that are also available not only on the <https://osvita.diia.gov.ua/en>, but also on the 40+ regional TV channels. Also we have podcasts and guides with different topics and for different audiences. Also we have HUBs, as offline points, that help ukrainians better understand digital technologic and get a better user experience.

68. Do you have/foresee measures to upskill and reskill the labour force with digital skills?

We envisage future additional educational courses on acquiring new skills and reskilling; for example, on the platform Diia.Digital education we have already started to present such courses. For example, a programming course for beginners (<https://osvita.diia.gov.ua/en/courses/programming-for-beginners>). The Ministry of Digital Transformation will continue to create similar courses for retraining and acquiring new skills of citizens in the Diia.Digital Education project.

Also there are more than 20 educational series that are required to the sphere of education "Lifelong learning. Professional and self-development in the digital environment" on <https://osvita.diia.gov.ua/en>.

69. What, if any, non-formal education and training modules are in place, including in advanced technologies?

We are developing educational courses on the topic of artificial intelligence and have some already done: Artificial Intelligence for the general consumer (available using the link: <https://osvita.diia.gov.ua/en/courses/artificial-intelligence>) and Artificial Intelligence for students (available using the link: <https://osvita.diia.gov.ua/en/courses/artificial-intelligence-for-schoolchildren>).

There are also many private or business schools, training and trainers, non-governmental organisations that provide non-formal education services, for example (incomplete list): EdEra, Prometheus, VUM Online, etc.

70. Do secondary schools dispose of adequate equipment for digital education solutions i.e. hardware, apps, learning materials and resources?

According to the official statistics, as of 05 September 2021, the status of providing general secondary education institutions with computer equipment was as follows:

Category	Number
Public and private general secondary education institutions (total)	13991
Public and private general secondary education institutions that have computers	13460
Public and private general secondary education institutions that have portable PCs (laptops, netbooks), tablets	13249
Personal PCs in institutions (total)	354144
with an acquisition period of more than 5 years	209347
used in management and economic activities	46769
Teachers' workplaces with PCs	78017
Computers connected to the Internet	255498
Laptops, netbooks	169350
Tablets	34559
Institutions with distance learning platforms, learning management systems (LMS)	6702

62674 more laptops have been purchased under the state program "Laptop for every teacher" in November-December 2021.

71. What are the training opportunities that public servants have at their disposal to acquire digital competences with the advance of e-Government service provision?

Yes, there are a Digigram for civil servants (available using the link: <https://osvita.diia.gov.ua/en/digigram>), its national test of the level of digital education, which allows to identify gaps in the knowledge of civil servants. More than 80 000 civil servants passed it. After passing the test and obtaining a certificate, the civil servant is invited to simple training on the platform Diia.Digital Education on relevant topics. For example there are more than 10 educational serials for civil servants on the platform Diia.Digital Education.

All of those courses are developed specifically for civil servants, all of them are recommended and verified by the National Agency of Ukraine for Civil Service and have 0.2 ECTS credits each.

72. What measures, including regulatory ones, are in place/foreseen to keep stable/increase the number of ICT specialists in Ukraine?

Growth of the IT sector also increases the demand for IT specialists: by 2030 the sector will need at least 500-600 thousand IT specialists.

The IT industry needs up to 40-50 thousand specialists annually, while higher education institutions graduate about 20 thousand bachelors of IT specialties.

In order to form a new vision for the development of IT education, together with the Ministry of Education and Science, President Office, Member of Parliament, and industry representatives we created a working group.

We involved experts, representatives of the IT industry and education in the working group. The largest Ukrainian IT companies, IT associations, clusters and representatives of educational institutions worked on the roadmap.

Based on the qualitative analysis, 15 areas for improving IT education in Ukraine were defined. They formed the basis of the road map that was approved by the common order of the two Ministries. The reform includes three main areas:

The development of non-formal education (edtech sector)

Increasing the competitiveness and autonomy of higher education institutions

Reform of mathematics and computer science lessons in schools, including STEM education.

73. Has Ukraine been experiencing a brain drain of ICT specialists?

Tax system in Ukraine is quite convenient for ICT professionals. Accordingly, the level of wages as well. In addition, the market of specialists is saturated, and the requirements and quality of services are increased. Therefore, since the market is open, we see both an outflow and an influx of ICT specialists. Of course, since there is a priority to increase the share of GDP from IT special forces, there is an internal demand for specialists. After Russia's military aggression against Ukraine, a small outflow of female IT specialists was noticed, but for now, they are returning.

There are more than 250,000 IT specialists in Ukraine. Significant demand for Ukrainian talents is due to the high level of education of Ukrainians.

Before the war started, according to some studies, every year Ukraine lost 3-4% of our IT specialists due to labour migration. However, as the tax regime in Ukraine is quite favourable, a lot of IT professionals who's work is outsourced abroad, can stay and work in their country, if there are no emergency war conditions.

74. If yes, is that at a rate that can jeopardise having sufficient qualified experts in the labour market?

No.

75. If yes, is Ukraine planning/rolling out initiatives to turnaround that phenomenon?

The Ministry of Digital Transformation has designed a project under a working title "IT-Nation", which aims to rapidly (up)skill 3,000 internally displaced or refugees in different areas related to IT (e.g., from front-end web development and specific IT languages to Business Analytics, Project management, etc.). The objective is to fill an existing growing gap between a high level of supply of job offers by the local IT market (which typically performs contracts for Western clients) and insufficient demand for them on the labour market side. With many IT specialists having to re-

orient themselves to support the war effort or having to move abroad, the demand-side issue has never been greater. Together with local edtech companies, the Ministry is expecting to reduce this existing gap through the “IT-Nation” skills development program, through which local talent would garner skills to allow them to work for Ukrainian or international IT companies. There are also several other initiatives for remote job search for ICT specialists.

A. General framework

76. Is the media legislation aligned to European standards on media in accordance with fundamental democratic principles?

Ukraine's current legislation provides adequate and necessary protection for the functioning of free media as a prerequisite for a democratic society. This protection is ensured by legal mechanisms that guarantee: editorial independence of the media, transparency of media ownership and mechanisms for financing the media that ensure their independence.

As a democratic state, Ukraine relies on media freedom in the following aspects:

- Free dissemination of official and accurate information to citizens (guarantees are provided in Articles 32 and 50 of the Constitution, the Law of Ukraine on Information)
- To enable the free exchange of opinions and ideas (guarantees are provided in Articles 34 and 54 of the Constitution, the Laws "On Television and Radio Broadcasting", "On Print Media (Press) in Ukraine", "On News Agencies", "On Public Television and Radio Broadcasting in Ukraine")
- Exposing illegal actions and preventing misleading people (guarantees provided in Article 32, 34 and 57 of the Constitution of Ukraine, the Law of Ukraine "On Prevention of Corruption").

First and foremost, Article 34 of the Constitution of Ukraine guarantees everyone the right to freedom of thought and speech and to freedom of expression of opinions and beliefs. Ukrainian legislation in the media sphere is aimed at banning censorship, independence of the media in their creative activity, free and open discussion of socially important problems, protection of journalists from unlawful infringements, ensuring transparency of media ownership, limiting media monopolisation by industrial-financial and political groups, unimpeded functioning of TV and radio broadcasting, and limiting influence of government and local self-government bodies on business and creative activity of the media.

Any restrictions to the right to freedom of expression, according to Ukrainian legislation, should be provided by law, justified, proportionate and necessary in a democratic society. This is guaranteed by Part 3 of Article 34 of the Constitution, norms of the Law of Ukraine "On Information", "On Access to Public Information" and "On Print Media (Press) in Ukraine".

At the same time, government agencies that develop and implement state information policy organise measures to ensure the free functioning of the media in Ukraine. The main objectives of the

state information policy are to create a developed information environment, modernise information infrastructure, develop information and telecommunication technologies, effectively form and use national information resources and provide free access to them, develop independent media and provide citizens with socially important information, assist the international community in the information sphere and assert information sovereignty of Ukraine, to prevent the threat of harm to the vital interests of individuals, society and the state in the process of information activities. On 06 November 2019, the Council for Freedom of Expression and Protection of Journalists under the President of Ukraine was established by Presidential Decree № 808/2019. This is an advisory and consultative body established to ensure respect for the constitutional right to freedom of expression, establishing effective cooperation between state authorities, media and civil society institutions, in particular, to prevent obstruction of journalists' lawful professional activities. The members of the council were elected by representatives of media and public organisations at a constituent meeting convened by the Office of the President of Ukraine. In total, 6 media delegates were elected, as well as one representative each from the Office of the President of Ukraine, the National Union of Journalists of Ukraine and the Independent Media Trade Union. In January 2020 the Freedom of Expression Council recommended ratification of the Convention on Access to Official Documents, which was subsequently supported by the Verkhovna Rada of Ukraine. Ukrainian legislation also guarantees the possibility to create diverse and free media. At the same time, obtaining the status of a journalist and the legal protection of his/her professional activity does not require belonging to a certain media outlet. Journalists independent from the media are given the possibility to establish and join professional associations of journalists. There are no regulations in Ukraine that prohibit bloggers or active social media correspondents from acting as "watchdogs of democracy".

The laws mentioned above and in the following questions in this section and their main amendments were aimed at harmonising Ukrainian legislation with that of the European Union and were drafted taking into account suggestions made by Council of Europe experts, which were based on:

- Convention for the Protection of Human Rights and Fundamental Freedoms (including Article 10 of the said Convention);

- European Convention on Transfrontier Television;

- The Declaration of the Committee of Ministers of the Council of Europe on Freedom of Expression and Information (1982);

- Directive 2010/13/EC of the European Parliament and of the Council on Audiovisual Media Services as amended by Directive 2018/1808 of the European Parliament and of the Council (EC).

- Recommendation No. R (94) 13 of the Committee of Ministers of the Council of Europe on measures to promote media transparency (1994);

- Recommendation No. R (96) 10 of the Committee of Ministers of the Council of Europe on the guarantee of the independence of public service broadcasting (1996);

- Recommendation No. R (97) 20 of the Committee of Ministers of the Council of Europe on "hate speech" (1997);

- Recommendation No. R (2000) 7 of the Committee of Ministers of the Council of Europe on the right of journalists not to disclose their sources of information (2000);

- Recommendation Rec (2000) 23 of the Committee of Ministers of the Council of Europe on the independence and functions of regulatory authorities for the broadcasting sector (2000);

- Recommendation Rec (2004) 16 of the Committee of Ministers of the Council of Europe on the right of reply in the new media environment (2004);

- Recommendation Rec (2007) 2 of the Committee of Ministers of the Council of Europe on media pluralism and diversity of media content;

- Recommendation 1878 (2009) of the Parliamentary Assembly of the Council of Europe on the funding of public service broadcasting;

- Recommendation CM/Rec (2016) 4 of the Committee of Ministers to member states on the protection of journalism and the safety of journalists and other media actors;

- Recommendation CM/Rec (2018) 1 of the Committee of Ministers to member states on media pluralism and transparency of media ownership

and others.

In July 2021, the Law of Ukraine "On Amendments to Certain Laws of Ukraine on Ensuring the Independence of the National Council of Television and Radio Broadcasting of Ukraine" came into force. The act adjusts some issues related to the Media NRA. The draft Law "On Media" (register No. 2693-d dated of 02 July 2020) is still awaiting consideration by the Parliament of Ukraine.

77. What is the legislative framework governing the audiovisual media services and television broadcasting (i.e. linear audiovisual media services including satellite and cable)?

The following acts (all as amended):

- The Law of Ukraine "On Television and Radio Broadcasting" №3759-XII entered into force on 21 December 1993;

- The Law of Ukraine "On the National Council of Television and Radio Broadcasting of Ukraine" №538/97-BP entered into force 23 September 1997;

- The Law of Ukraine "On Ensuring Functioning of the Ukrainian Language as the State Language" №2704-VIII dated of 25 April 2019;

- The Electoral Code of Ukraine № 396-IX dated of 19 December 2019;

- The Law of Ukraine "On Elections of People's Deputies (MPs)" №4061-VI dated of 17 November 2011;

- The Law of Ukraine "On Local Elections" №595-VIII dated of 01 July 2015;
- The Law of Ukraine "On Information" №2657-XII dated of 02 October 1992;
- The Law of Ukraine "On Advertising" №270/96-BP dated of 03 July 1996;
- The Law of Ukraine "On Public Television and Radio Broadcasting of Ukraine" №1227-VII dated of 17 April 2014;
- The Law of Ukraine "On Condemnation of Communist and National-Socialist (Nazi) Totalitarian Regimes in Ukraine and Prohibition of Propaganda of Their Symbols" № 317-VIII dated of 09 April 2015;
- The Law of Ukraine "On Electronic Communications" № 1089-IX dated of 16 December 2020;
- The Law of Ukraine "On Copyright and Related Rights" № 3792-XII of 23 December 1993;
- The Law of Ukraine "On Foreign Broadcasting System of Ukraine" № 856-VIII of 08 December 2015;
- The Law of Ukraine "On Protection of Public Morality" №1296-IV dated of 20 November 2003;
- The Law of Ukraine "On Cinematography" №9/98-BP dated of 13 January 1998;
- The Decree of the Cabinet of Ministers of Ukraine of 13 April 2011 №412 "On Approval of the Methodology of calculation of the amount of the licence fee for issuance or extension of the validity of the licence for broadcasting, licence of a programme service provider, determination of the amount of payment for reissuance of licence and issuance of duplicate licence for broadcasting, licence of a programme service provider";
- The Decision of the National Council of Television and Radio Broadcasting of Ukraine №1684 dated of 01 December 2010 "On Approval of the Plan for the Development of the National Television and Radio Information Landscape", registered with the Ministry of Justice of Ukraine on 20 December 2010 under №1294/18589;
- The Decision of the National Council of Television and Radio Broadcasting of Ukraine № 2979 dated of 28 December 2011 "On Approval of the Regulation on the Procedure for Issuing a Licence of a programme service provider", registered with the Ministry of Justice of Ukraine on 02 March 2012 under № 351/20664;
- The Decision of the National Council of Television and Radio Broadcasting of Ukraine dated of 21 January 2016 №2 "On Approval of the Procedures for Submission by TV and Radio Organizations and programme service providers of Ukraine of Information on Ownership Structure and Referred Forms of Documents", registered in the Ministry of Justice of Ukraine on 17 February 2016 under № 251/28381;
- The Decision of the National Council of Television and Radio Broadcasting of Ukraine №288 dated of 01 March 2018 "On Approval of the Procedures for Issuance and Cancellation of Permission for Temporary Broadcasting, Conditions of Permission and Procedures for Supervision over Observance of Legislation on TV and Radio Broadcasting by TV and Radio Organizations Carrying out Temporary Broadcasting in Territories with Special Mode of Broadcasting on the Basis of an

Appropriate Permission", registered with the Ministry of Justice of Ukraine on 29 March 2018 under №386/31838;

- The Decision of the National Council of Television and Radio Broadcasting of Ukraine № 1146 dated of 23 July 2015 "On Approval of Rules of Broadcasting of TV and Radio Channels on Days of Mourning and Days of Remembrance", registered with the Ministry of Justice of Ukraine on 11 August 2015 under №967/27412.

- The Decision of the National Council of Television and Radio Broadcasting of Ukraine № 117 dated of 08 February 2012 (as amended by the decision of the National Council of Television and Radio Broadcasting of Ukraine № 306 dated of 10 March 2016) "On Approval of the System of Visual Marks with the Index of Film Video Production Depending on the Audience, for which it is Targeted", registered with the Ministry of Justice of Ukraine on 24 February 2012 under №307/20620.

Article 23 of the Law of Ukraine "On Television and Radio Broadcasting" provides for the licensing of such types of broadcasting - satellite, terrestrial broadcasting, cable broadcasting.

Licences for terrestrial broadcasting are granted on a competitive basis and licences for satellite and cable broadcasting are granted without competitions (by application principle).

A broadcasting licence is granted for a period determined by the National Council in accordance with the application for a licence, but not less than 7 years for terrestrial broadcasting and 10 years for satellite, cable broadcasting.

The licensing of activities (broadcasting) for programme service providers (cable television and radio broadcasting) is carried out according to the registration principle. Such a licence is granted for ten years.

Broadcasting licensing is carried out exclusively by the National Television and Radio Broadcasting Council of Ukraine, which performs functions of a regulator for television and radio broadcasting. Licensing competitions are initiated, announced and conducted by the National Council. The National Council may initiate the competition on its own initiative or upon the respective application of a TV and radio organisation. The revocation of a licence is allowed only from a court decision at the suit of the National Council.

In addition, in recent years the efforts of the expert community and parliamentarians have been aimed at creating a single codified act in the media sphere in order to bring Ukrainian legislation closer to EU legislation in the field of audiovisual media services. A comprehensive draft law to that effect was drafted, put up for public discussion and registered at the Verkhovna Rada of Ukraine. The draft law "On the Media" offers a comprehensive approach to the regulation of the media, including online media. The Law is based on the provisions of Directive 2010/13/EC of the European Parliament and of the Council on Audiovisual Media Services of 10 March 2010, as amended by Directive (EC) 2018/1808 of 14 November 2018, which allows to bring national legislation as close as possible to EU standards.

Article 28 of the EU Audiovisual Media Services Directive provides for appropriate measures against harmful content. In this context, Article 28 of the Law on Information prohibits the use of information to infringe on the rights of others and Article 20 of the Law on Childhood Protection prohibits the promotion in the media of the cult of violence and cruelty, the distribution of pornography and information that despises human dignity and harms the moral well-being of

children. This aspect is also regulated by the Acts "On protection of public morals" and "On protection of information in information and communication systems". The criteria for classifying products as having a pornographic nature were approved by Order №212 of the Ministry of Culture of Ukraine of 16 March 2018.

The Ministry of Digital Transformation of Ukraine has developed and the National Commission responsible for state regulation in the area of communications and information technology has agreed on a draft regulation of the Cabinet of Ministers approving the National Strategy for the Protection of Children in the Digital Environment for the period until 2025. The strategy is designed to develop a state policy for the protection of children in the digital environment, coordinate action and combine national and international, public and private, legal and voluntary means for responding to and preventing violations of children's rights in the digital environment. Article 3 of the Law of Ukraine on Copyright and Related Rights also includes broadcasting organisations in its scope of regulation.

78. What is the policy established or foreseen with regard to the switch-over to digital broadcasting and the use of digital dividend?

With a view to implementing the International Telecommunication Union Regional Agreement concerning planning for digital terrestrial radio broadcasting service in Region 1 (parts of Region 1 located west of the meridian of 170 degrees East and north of the parallel of 40 degrees East, with the exception of the territory of Mongolia and the Islamic Republic of Iran in the frequency bands 174-230 MHz and 470-862 MHz ("Geneva-2006"), the Government of Ukraine, together with other State bodies, has taken steps to introduce digital terrestrial television in Ukraine. The relevant agreement entered into force for Ukraine on 15 October 2010.

The issue of the transition from analogue to digital broadcasting was regulated by the Plan of the Use of Radio Frequency Resource of Ukraine approved by the Resolution of the Cabinet of Ministers of Ukraine №815 of 09 June 2006.

In 2011, a national digital TV network was built in DVB-T2 (MPEG-4) standard consisting of four multiplexes MX-1, MX-2, MX-3, MX-5, covering 95% of country's population with digital signal. Television viewers were given the opportunity to receive 28 national and 4 regional or local programmes free of charge.

Since the establishment of the national digital television network, there has been a transition period providing for simultaneous broadcasting in both analogue and digital formats.

Responsible government agencies carried out ongoing work to further introduce digital terrestrial television, including analysis of the actual coverage of the country with digital signal, identifying "white spots" in the existing digital coverage and ways to eliminate or reduce them, analysing the free radio frequency resource for the needs of the next multiplexes, determining the saturation of viewers with devices for digital signal reception, providing low-protected population. At present, digital terrestrial broadcasting of the DVB-T2 standard has been fully implemented in Ukraine. Please note that, in accordance with the Resolution of the Cabinet of Ministers of Ukraine dated 16 December 2020 № 1263 "Some issues of radio frequency resource use in Ukraine", analog television broadcasting technology is used exclusively for broadcasting channels on the territories bordering with the Russian Federation and its temporarily occupied territories as determined by the

National Council of Ukraine on Television and Radio Broadcasting for the period until the restoration of the sovereignty and territorial integrity of Ukraine. Such measures were related to the need to provide for the population living in settlements where there is no digital signal and to combat destructive propaganda from the Russian Federation.

Also during 2021, activities were carried out to develop another multiplex (MH-7) by the state-owned Radio, Radio Communications and Television Concern. It is expected that as part of this project, at least 90% of Ukraine will be covered by digital television broadcasting. It will also provide full access to Ukrainian television and radio programmes for people living in the border regions and areas bordering the temporarily occupied territories of Ukraine. The project should be implemented by the end of 2022.

According to the Decree of the President of Ukraine from 17 May 2019 № 242 "On providing conditions for implementation of mobile (mobile) communication system of the fifth generation", Decree of the President of Ukraine from 08 July 2020 № 497 "On some measures to improve access to mobile Internet", Orders of the Cabinet of Ministers of Ukraine from 11 November 2020 № 1409-r "On approval of action plan for implementation of mobile (mobile) communication system of the fifth generation in Ukraine" and from 11 November 2020 № 1457-p "On Approval of the Plan of Measures for Freeing Radio Frequency Bands in the Bands 790 - 862 MHz, 694 - 790 MHz from Broadcasting Facilities (Television) for Introduction of LTE Radio Technology" the state authorities perform work on freeing radiofrequency resource of Ukraine in the radio frequency band of digital dividends from TV broadcasting facilities. Currently, the bands I and II of the digital dividends are used for analogue television broadcasting and digital television broadcasting.

One of the factors influencing the need to change state policy in the field of telecommunications is the desire of Ukraine to implement the Decision 2017/899 of the European Parliament and the Council "On the use of the 470-790 MHz frequency band in the European Union" and to release radio frequency bands in the 700 MHz band for the needs of communications.

B. Audiovisual Media Services Directive

79. What are the competent authorities in the field of audiovisual policy? How are the competencies shared between them?

In accordance with Article 7 of the Law of Ukraine «On Television and Radio Broadcasting» regarding the state administration and regulation in the area of broadcasting, it is determined that:

- The Verkhovna Rada of Ukraine determines the state policy on television and radio broadcasting, the legislative basis for its implementation, guarantees of social and legal protection of employees in this area.
- The Cabinet of Ministers of Ukraine ensures the implementation of the state policy on television and radio broadcasting, directs and coordinates the activities of ministries and other executive authorities in this area.
- Ensuring the formation and implementation of the state policy in the area of television and radio broadcasting rely on the central executive body in the relevant area (the Ministry of Culture and Information Policy of Ukraine).

· The only body of the state regulation of activities in the area of television and radio broadcasting, regardless of the method of distribution of television and radio programme services and programmes, is the National Council of Television and Radio Broadcasting of Ukraine.

The Parliament

The main body which provides the state's internal and external policy, as well as the policy in the field of audiovisual media, is the parliament – Verkhovna Rada of Ukraine. According to the Constitution, it adopts the Laws of Ukraine, approves the budget, national programmes of economic, scientific and technical, social, national and cultural development. Verkhovna Rada also appoints half of the composition of the National Council of Ukraine on Television and Radio Broadcasting and, by the nomination of the Prime Minister, the Chairman of The State Committee for Television and Radio Broadcasting.

The Parliamentary Committee for Humanitarian and Informational Policy provides draft laws, processes the drafts provided by other bodies, makes considerations and conclusions on draft laws and national programmes. It cooperates with the other bodies of legislative initiative (President, Cabinet of Ministers) in the process of providing acts. It is also obliged to analyse and summarise public comments and suggestions. As part of its organisational function, the Committee takes part in interparliamentary activities and cooperates with international organisations.

The Cabinet of Ministers

As the main executive body in Ukraine, the Cabinet of Ministers provides the realisation of state policy in the field of television and radio broadcasting. It coordinates and directs the activity of the Ministry of Culture and Information Policy and the State Committee for Television and Radio Broadcasting. According to the Law on The Cabinet of Ministers, the body considers proposals of NGO. As the Decree of the Cabinet of Ministers of Ukraine №996 states, the bodies of executive power provide consultations with the public on its acts and decisions and form public councils for this purpose.

The Ministry of Culture and Information Policy

The Ministry is the main executive body which provides formation and implementation of state policy in the field of television and radio broadcasting. According to the Decree №885, the Ministry:

- provides formation and implementation of state policy in the field of television and radio broadcasting;
- carries out regulatory and legislative function in the field (provision of draft laws, other acts);
- determines perspectives and priorities of development of broadcasting;

The Ministry has an advisory body called The College of the Ministry of Culture and Information Policy. It consists of the Minister, his first deputy and deputies. There also could be managers of the departments of the Ministry, other bodies. The Ministry provides electronic consultations with the public on its processing draft acts.

The National Council of Ukraine on Television and Radio Broadcasting

The National Council of Ukraine on Television and Radio Broadcasting is the constitutional collegial body aimed to oversee the compliance with the laws in the field of television and radio broadcasting. It also exercises regulatory powers. The Council consists of eight members. Four of them are being appointed by the President and four – by the Parliament. The body is regulated by the Law on the National Council of Ukraine on Television and Radio broadcasting.

The Council has such oversight functions:

- compliance with the laws in the activity of the television and radio broadcasting companies and programme service providers;
- compliance with the laws and licence conditions by licensees;
- compliance with the standards and norms of technical quality;
- compliance with the laws on referenda and elections and the activity of media in this period;
- compliance with the provisions on the quota of Ukrainian audiovisual product and the language of broadcasting;
- compliance with the provisions on transparency of property of the audiovisual media;
- official monitoring of TV and radio programmes;
- other responsibilities.

The Council has such regulatory functions:

- licensing of broadcasting companies and programme service providers;
- issuance of temporary broadcasting permits;
- working on the plan for the allocation and use of radio frequency spectrum;
- ensuring the competitive environment in the audiovisual field;
- operating the Register of the subjects of information activity;
- other responsibilities.

The Council also plays an important role in the development of TV and radio broadcasting. It develops and approves the Plan of development of national television and radio information space, makes analysis of the state of television and radio broadcasting, promotes integration of television and radio broadcasting organisations of Ukraine into world information space etc.

Regarding transparency and accountability, the decisions of the Council are accessible and open to the public. The Council prepares the annual report on their activity, makes it public by 1 February of the year that follows the report year and forwards it to the Parliament and the President. It also

makes a report on the compliance with the laws in the field of broadcasting during the elections and referendums.

The transparency of the Council is also provided by the Public Council which is the advisory body, composed of media experts, lawyers, journalists and others. It coordinates events, provides consultations with the public to ensure transparent cooperation.

a) Accountability and transparency mechanisms (towards stakeholders, citizens);

Article 16 “On the National Council of Television and Radio Broadcasting of Ukraine” establishes the obligation for the National Council to ensure openness and reporting. Including:

- The activities and decisions of the National Council are open. Information about the National Council and its activities, including reports of the National Council, draft regulatory acts and decisions of the National Council are subject to mandatory publication in accordance with the Law of Ukraine “On Access to Public Information”. The Apparatus of the National Council provides information on requests addressed to the National Council in accordance with the Law of Ukraine “On Access to Public Information”.

- The National Council annually prepares a report on its activities, publishes it by February 1 of the next reporting year and immediately sends a report to the Verkhovna Rada of Ukraine and the President of Ukraine. The report on the activities of the National Council is presented by the Chairman of the National Council at a meeting of the Verkhovna Rada of Ukraine.

For the rational use of taxpayers’ funds to ensure publicity and transparency in the area of public procurement, the National Council carries out its activities in this direction in accordance with the requirements of the Law of Ukraine “On Public Procurement” of 25 December 2015 № 922-VIII.

For this purpose, the National Council has created a sector of public procurement and contractual work. All purchases the cost of which is equal to or exceeds the equivalent of UAH 50 thousand are carried out on a competitive basis using one of the procedures provided for by the Law of Ukraine “On Public Procurement”. Purchases the cost of which exceeds the equivalent of UAH 200 thousand are carried out only according to the open bidding procedure, with the involvement of an unlimited number of participants.

The possibility of participation in competitive bidding of international companies is ensured in the case when the amount of purchases for goods and services exceeds – Euro 133 thousand, and for works – Euro 5,150 thousand. In this case, the terms of the competition are additionally published in English.

For procurement, the National Council uses the authorised platform “Public Procurement Online”, which is included in the “PROZORRO” system.

Accordingly, the whole history of procurement, all reports and copies of contracts concluded as a result of procurement are published and stored in the public domain on these web resources. References to the procurements and concluded contracts are also to be duplicated on the official web portal of the National Council in the section “Public Procurement” (not done yet).

The sector of public procurement and contractual work of the National Council includes three experts, one of whom is engaged in the preparation and conduct of public procurements, the cost of which exceeds the equivalent of UAH 200,000. On the basis of the needs and technical conditions provided by the units of the National Council, tender documentation and conditions of the competition

are formed, after which it is published and passes all stages in the PROZORRO system. After the completion of the procurement procedure, an agreement with the winner of the competition is concluded within the time limits stipulated by the Law. The second expert is engaged in pre-threshold procurement, the cost of which does not exceed UAH 200,000. He/she also prepares simplified competitive conditions and ensures the publication of a large number of transactions arising from the economic activities of the National Council.

The third expert is engaged in coordinating the work of all units of the National Council involved in the preparation of a particular agreement. He/she coordinates their technical, legal and financial parts, ensures visas and processing. Also carries out their accounting, storage and disclosure in the public domain.

Citizens' appeals for 2021:

In 2021, the National Council received 754 written appeals from citizens. The National Council provides responses to citizens' appeals in accordance with the Law of Ukraine "On Citizens' Appeals" and the Law of Ukraine "On Access to Public Information".

The term of consideration of such appeals in accordance with:

Article 20. Term of consideration of citizens' appeals

Appeals are considered and resolved within a period of not more than one month from the date of their receipt, and those that do not require additional study - immediately, but not later than fifteen days from the date of their receipt. If it is impossible to resolve the issues raised in the appeal within a month, the head of the relevant body, enterprise, institution, organisation or his/her deputy establishes the necessary period for its consideration, as reported to a person who filed the appeal.

The term of consideration of requests for information is defined in Article 20 of the Law of Ukraine "On Access to Public Information" dated 13 January 2011 № 2939-VI (hereinafter referred to as the Law №2939), parts 1 and 4 of which stipulate that the information manager must respond to a request for information no later than five working days from the date of receipt of the request.

If the request relates to the provision of a large amount of information or requires the search for information among a significant amount of data, the information manager may extend the period of consideration of the request to 20 working days with the justification of such an extension.

Topics of citizens' appeals:

- Top-2021 topic was the topic of strengthening the information protection of the state from the destructive influence of propaganda and disinformation and hate speech used by the aggressor country to conduct hybrid warfare.

- At the beginning of the year, a significant number of appeals were caused by the decision of the National Security and Defense Council of Ukraine of 02 February 2021 "On the application of personal special economic and other restrictive measures (sanctions)", put into effect by the Decree of the President of Ukraine, which provided for the application of personal special economic and other restrictive measures (sanctions) to a number of legal entities, in particular, the LLC "TV and Radio Company "112-TV" (logo: "112 UKRAINE"), the LLC "News 24 hours" (logo: "NEWSONE"), the LLC "TRC "New Communications" (logo: "Z ZIK").

- Last year, the topic of encoding satellite TV channels became particularly acute –more than three hundred letters were received.

- The content of the complaints concerning poor reception of the signal, the lack of reception of digital programmes in general in some areas or the temporary absence of certain programmes. To most appeals, the National Council provided thorough answers on the basis of information that it possesses in accordance with the competence. Also, some appeals were sent to the provider of the National Digital TV Network "ZEONBUD LLC", Kyiv, to take appropriate response measures.

- A number of appeals, and their consideration were paid with special attention - concerning the issues of unsatisfactory coverage by Ukrainian broadcasting of border regions and areas bordering on the temporarily occupied territories.

In 2021, the regulatory authority received 754 written appeals from citizens. If one considers the receipt of appeals in the context of regions, the most active contributors were residents of the capital, who in general sent more than two hundred appeals. A significant number of letters were also received from Dnipropetrovsk Region (69), Lviv Region (57) and Kharkiv Region (47). In 2021, the National Council received 93 requests for public information from legal entities and individuals.

Responses to all requests were provided on time, in accordance with Article 20 of the Law of Ukraine "On Access to Public Information". Information on the receipt and status of consideration of requests is systematically published on the official website of the National Council. In general, the work on processing citizens' appeals and requests for public information is sustainable, uninterrupted, based on maximum feedback and is aimed at the effectiveness of the final result. The National Council in its activities adheres to the principles of transparency and openness.

Every year, the media regulator draws up a Report on its activities and sends it to the Verkhovna Rada of Ukraine and the President of Ukraine.

According to part eleven of Article 11 of the Law of Ukraine "On the National Council of Television and Radio Broadcasting of Ukraine", representatives of the National Council submit an annual report on their work to the National Council.

The report of the representative of the National Council reflects the results of his/her activities during the reporting year (regarding: the state of licensing and development of the TV and radio information landscape in the relevant territory; compliance by licensees with the provisions of the current legislation, licensing terms and conditions; fulfilment by TV and radio organisations and programme service providers of requirements for disclosure of information about ultimate beneficial owners (controllers), related parties and ownership structure, etc.).

Reports of representatives of the National Council are attached to the annual Report on the activities of the National Council and published on the official website and the relevant territory.

The website has two main target audiences:

- public (citizens, public associations, professional associations, journalists, etc.);
- entities of information activities in the area of television and radio broadcasting, participants of the television and radio broadcasting market (TV and radio organisations, providers of programme services, their representatives, etc.).

Every day the content of the website of the National Council is promoted. Thus, news, international information, interviews and comments of Members of the National Council, decisions of the National Council are posted, information provided by structural units of the National Council, which contains the necessary documents and explanations, is changed and updated. In particular, in 2021, 596 messages, 2,146 decisions of the National Council were posted; in 2022 (as of March 31) – 239 messages, 231 decisions and other materials related to the media area and its regulation.

ENGLISH VERSION OF THE WEBSITE

The English version has a homepage and basic information placed in the basement and a translation of certain news.

The main menu of the English page contains sections:

- News
- For foreign broadcasters
- About the National Council
- Personal reception of citizens

SPECIAL FUNCTIONALITY OF THE SITE

On the website there is an option to submit an appeal, a request for access to public information, as well as through a separate online platform to submit binding information about the ownership structure of the media. At the national level, the right to appeal to an independent court against any decision, action, or omission of the supervisory body is affirmed, if such decision, action, or omission affects exercise of the rights. There is a version of the site for visually impaired users. There is a general search option on the site for all categories (decisions, registers, news, etc.) by keywords, in addition, the search works in the sections "Decisions of the National Council", "State Register". There is a search option for information on the list of must-carry programmes by localities. There is a calculator of the basic licence fee (for an estimated calculation of the size of the licence fee). At the time of the introduction of martial law in Ukraine, certain sections of the website are currently closed to users.

Informing about the activities of the National Council

Since Ukraine continued restrictive measures related to the spread of Covid-19, which were introduced in March 2020, public and mass events, such as press conferences, briefings, meetings of working groups, industry discussions, were not held offline. Moreover, martial law has now been imposed in Ukraine due to a large-scale invasion by the Russian Federation.

Starting each of the online meetings, which are broadcast in real time on the official website via YouTube and on the page of the National Council in the social network Facebook, the Chair, Deputy Chairs and Members of the National Council inform licensees and the public about important issues of the regulatory authority. This information is published on the website and distributed in the media. It is constantly ensured to post interviews and comments of the Chair, Deputy Chairs and Members of the National Council to TV and radio companies and online publications on topical issues

of the industry. All the time, news is being prepared about the activities of the National Council and about events in the domestic and world media area, which are posted on the website of the National Council and sent for use by the media in the form of digests. Daily monitoring of the information space – TV channels, radio stations, Internet and print publications – is carried out and the analysis of messages is distributed among Members of the National Council and employees of the apparatus.

Work of pages of the National Council in social networks

The National Council has its Facebook and Twitter pages, as well as a YouTube channel. Facebook - 7,005 followers, Twitter - 5,006 followers, YouTube - 758 followers.

The National Council constantly informs users of social networks Facebook and Twitter about its activities, holding meetings, events, etc. also publishes interviews and comments of Members of the National Council presented on TV and radio channels and online publications.

On the regulator's YouTube channel and on his Facebook page meetings of the National Council are broadcast online.

The electronic cabinet for licensees

To optimise the processes of data exchange with Applicants and Licensees and the transition to the processing of licence documentation in electronic form, an Electronic User Cabinet has been developed. The e-cabinet is a part of the special software for maintaining the State Register of Entities of Information Activity in the area of TV and radio broadcasting, created on the Microsoft SharePoint platform with the database management system (DBMS) Microsoft SQL Server. The software has an expert opinion on compliance with legislation in the area of technical protection of information. The e-cabinet is available to licensees and applicants as a web page on the Internet. Its friendly interface and functionality allow applicants and licensees to upload, sign with an electronic signature and send relevant applications and accompanying documentation to the National Council. Regulatory documents, licensing process, application templates and supporting documentation are posted in the relevant section of the official web portal of the National Council. The functionality of the Electronic Cabinet on the side of the National Council operator allows to receive sent electronic documents, check their digital signature, register, process together with other departments and record the results of processing. Applicants and licensees have the opportunity to see the progress and results of joint processing of submitted documents in the Electronic Cabinet. Licensing information that is available to the general public.

In accordance with Article 38 of the Law of Ukraine "On Television and Radio Broadcasting", the National Council maintains the State Register of Entities of Information Activities in the Area of TV and Radio Broadcasting, which includes data on TV and radio organisations that have received broadcasting licences, programme service providers and entities registered as subjects/entities of information activities:

- the name of the entity of information activities in the area of TV and radio broadcasting;
- call signs, logo, trademark (if any);
- programme objectives or thematic orientation;
- legal and postal addresses of the entity of information activities in the area of television and radio broadcasting;

- contact telephone numbers, e-mail addresses;
- information on the ultimate beneficiary owners (controllers);
- on the staff of the management and supervisory bodies of the entity of information activities in the area of TV and radio broadcasting;
- date and number of relevant decisions to issue a broadcasting licence or licence of a programme service provider;
- series and licence number;
- the validity period of the licence;
- for television and radio organisations - type (types) of broadcasting, volumes of broadcasting and time of broadcasting;
- for TV and radio organisations - territorial characteristics of broadcasting (national, regional or local with the definition of the relevant regions, districts and localities);
- on reissuing the licence, amending the licence, issuing a copy of it or duplicate it;
- the renewal of the licence;
- on imposing penalties on the entity of information activities in the area of TV and radio broadcasting in accordance with the requirements of the Law;
- date and number of the decision to declare the licence invalid and to cancel it.

Information in the State Register is constantly adjusted in connection with the introduction or withdrawal of TV and radio organisations and programme service providers, changes to licences are taken into account, including changes in the conditions of activity, territorial category of broadcasting, licensing conditions, etc. Access to the State Register of Entities of Information Activities in the Area of Television and Radio Broadcasting is free. The National Council places information of the State Register on the website, including in the form of open data in accordance with the Law of Ukraine "On Access to Public Information".

In accordance with Article 28 of the Budget Code of Ukraine, the National Council, as the main manager of state budget funds, publishes by posting on its official website:

- Budget requests, including information on the purpose, objectives and effective indicators that are expected to be achieved in the implementation of budget programmes, as well as information on the goals of state policy in the relevant area of activity, the formation and/or implementation of which is provided by the main manager of state budget funds, and indicators of their achievement based on the results of the previous budget period, expected in the current budget period and forecasts for the medium term, no later than three working days after the submission to the Verkhovna Rada of Ukraine of the draft law on the State Budget of Ukraine.

- Until 15 March, the year following the reporting year, public presentation and publication of information on the budget for budget programmes and indicators, budget appointments for which are determined by the Law on the State Budget of Ukraine, in accordance with the requirements and in the form established by the Ministry of Finance of Ukraine, are carried out.

- Information on the goals of state policy in the relevant area of activity, the formation and/or implementation of which is provided by the main manager of budgetary funds, and indicators of their achievement within the budget programmes for the reporting budget period - until March 15 of the year following the reporting year;
- Passports of budget programmes for the current budget period within three working days from the date of approval of such documents;
- Reports on the implementation of passports of budget programmes for the reporting budget period - within three working days after the submission of annual budget statements;
- The results of the assessment of the effectiveness of budget programmes for the reporting budget period - within two weeks after the submission of annual budget statements.

b) The level of cooperation with other regulatory bodies within Ukraine and with other countries

Given that the media area cannot exist without a technical component, the National Council is actively cooperating with another regulator: the National Commission for State Regulation of Communications and Informatization. The National Council is a member of the European Platform of Regulatory Authorities (EPRA) and the Black Sea Broadcasting Regulatory Authorities Forum (BRAAF). Two Memorandums of Understanding have been concluded with the Lithuanian Media NRA (Lithuanian Radio and Television Commission) and the Armenian Media NRA. The Chair of the National Council represents Ukraine in the Steering Committee on Media and Information Society of the Council of Europe.

80. Please refer to the procedure for assignment of frequencies for television broadcasting in Ukraine. Which authority is responsible for assigning the frequencies, selecting the television broadcaster and setting the conditions for broadcasting?

The only authority of state regulation of activities in the area of TV and radio broadcasting, regardless of the method of distribution of television and radio programme services and programmes, is the National Council of Television and Radio Broadcasting of Ukraine.

The general procedure for frequency assignment is as follows:

- TV and radio organisation appeals to the National Council with a request to order a calculation of the frequency.
- The National Council appeals to the State Enterprise State Center of Radio Frequencies to develop conclusions on the possibility and conditions for using the radio frequency resource of Ukraine for the needs of broadcasting (conclusions).
- After domestic and international frequency coordination, the Center issues an appropriate conclusion (permit).
- The National Council pays for services to develop conclusions from the State Budget of Ukraine.

- After receiving the conclusion, the National Council announces a competition for obtaining frequencies for broadcasting needs.

- At the meeting of the National Council, applications from the TV and radio organisations are considered competitively and the winner is determined.

In accordance with Article 24 of the Law of Ukraine "On the National Council of Television and Radio Broadcasting of Ukraine", only at the meetings of the National Council, decisions are taken to announce competitions for broadcasting licences and competitive conditions are approved.

Competitive conditions are determined by the National Council before the announcement of the competition and approved by a separate decision of the National Council. Competitive conditions include:

- licensing conditions for the appropriate type of broadcasting;
- requirements for the programme concept of broadcasting;
- requirements for the organisational, technical, financial and investment obligations of the future licensee. The terms and conditions of the broadcasting licence obtained according to the results of the competition are determined by the National Council in agreement with the future licensee in accordance with the competitive conditions and the characteristics of broadcasting and obligations declared by a licensee.

After the end of a competition, the winning TV and radio organisation may assume additional obligations, which are also drawn up as the terms and conditions of the licence.

81. What is the regime governing the granting of the rights of use of radio spectrum and the allocation of frequencies or satellite capacity?

According to the Law of Ukraine "On Television and Radio Broadcasting" (Article 23 "Licensing of Broadcasting"), the issuance of broadcasting licences is carried out on a competitive basis (based on the results of open competitions) or without competitions (on the application principle) in cases provided for by this Law. On a competitive basis, licences are issued for terrestrial broadcasting; multichannel broadcasting using radio frequency resources. Without competitions, licences are issued for satellite broadcasting; cable broadcasting; wired broadcasting; broadcasting on the broadcast channel of a multichannel terrestrial television network in the case provided for by part 9 of Article 22 of this Law; broadcasting of the NSTU (PSB) to the extent determined by Article 5 of the Law of Ukraine "On Public Television and Radio Broadcasting of Ukraine".

82. What are the distribution systems in place (terrestrial, cable, satellite)? What (if any) are the "must carry" regulations (obligations for the network to distribute certain channels)?

In Ukraine, terrestrial, cable and satellite distribution systems are subject to state regulation. The wired broadcasting system for radio is also used.

Radio technologies used in Ukraine for television and radio broadcasting purposes, according to the Plan for the Use of Radio Frequency Resource approved by Cabinet of Ministers Resolution № 815 of 09 June 2006, include analogue sound and television broadcasting, digital terrestrial television broadcasting, satellite radio broadcasting and radio broadcasting for transmission and retransmission of television images, sound transmission, digital information in multi-channel distribution systems.

Depending on the area of program distribution there are national, regional and local digital television networks of DVB-T2 standard in the field of terrestrial multichannel television broadcasting.

Terrestrial radio broadcasting is carried out using long wave, medium wave, short wave and ultra-short wave frequencies of lower and upper sub-bands. Depending on the area of programme distribution there are 15 national radio networks, 38 regional radio networks and 291 local radio channels.

Multichannel terrestrial digital radio broadcasting in DAB+ standard in Kyiv is performed by 12 TV and radio organisations broadcasting 14 programmes.

There are 595 providers of programme service in cable networks, including 227 providers using IPTV technology and 1 provider using OTT technology. Foreign IPTV and OTT providers may be received without restrictions in Ukraine, except for entities to which restrictions are applied in accordance with the Law of Ukraine "On Sanctions". The Law of Ukraine "On Television and Radio Broadcasting" does not require mandatory licensing (registration) of OTT services. Instead, IPTV providers must obtain a licence by the National Television and Radio Broadcasting Council of Ukraine.

Satellite television broadcasting is carried out by 109 TV and radio organisations and 3 TV and radio organisations carry out satellite radio broadcasting. The main foreign satellite broadcasters are Amos 3/7, Astra 4A, Astra 5B, Eutelsat Ka-Sat 9, Eutelsat 9B, Hot Bird 13⁰, Azerspace-1, Türksat-3A.

Due to the introduction of coded access to basic rating TV programmes (1/3 of the programmes encoded by TV and radio organisations) of satellite broadcasting there is a trend of increasing population's demand for the use of TV programme services from satellite DTH-platforms. In Ukraine, 2 programme service providers provide access to satellite TV and radio programmes for a subscription fee.

Programme providers are obliged to provide all subscribers with the possibility to receive programmes of the universal programme service.

In order to distribute programmes of the universal programme service, the provider is not obliged to conclude contracts with the respective television and radio companies. The programmes of the universal programme service shall be (Article 1):

- programmes of the public service broadcaster (Public Broadcasting Company of Ukraine, UA:PBC)

- programmes of the state enterprise "Parliamentary TV channel Rada" established by the Verkhovna Rada of Ukraine

- programmes of TV and radio organisations of local and regional broadcasting categories that provide broadcasting in the territory of the respective multi-channel network used by the provider of the programme service.

The list of programmes of universal programme service is approved by the National Television and Radio Broadcasting Council of Ukraine for the locality (village, town, city, district, region, all of Ukraine) on the territory of which the programme service provider operates, taking into account the type of technology used to perform such activity.

83. What are the arrangements as regards technical broadcast standards?

The issue of supervision over compliance with standards and norms of technical quality of TV and radio programmes is within the powers of the National Council (Article 13 of the Law of Ukraine “On the National Council of Television and Radio Broadcasting of Ukraine”). The TV and radio organisations must comply with the requirements of domestic standards of DSTU, standards provided for by the Plan for the use of radio frequencies (including international standards EN, ETSI, etc.), as well as the requirements of licences, which define broadcasting technologies, technical characteristics, etc. The measures also include scheduled and unscheduled inspections, as well as processes related to licensing (issuing, reissuing licences).

84. Which public and private broadcasters are licensed or authorised and how are they financed?

During all years since the development and adoption of the Law of Ukraine “On Public Television and Radio Broadcasting of Ukraine” (2014), the National Council has supported the formation and development of the Ukrainian Public Service Broadcaster – the National Public Television and Radio Company of Ukraine (NSTU). It was created on the basis of former state television and radio companies. Currently, the NSTU includes TV channels "UA: FIRST", "UA: CULTURE" and 24 regional branches. They broadcast in multichannel digital TV networks MX-1, MX-2, MX-3, MX-5 using 523 channels (except for channels in 5 temporarily occupied areas of Donetsk and Luhansk Regions and 18 localities of the temporarily occupied territory of the Autonomous Republic of Crimea). The NSTU also has three radio networks: "Ukrainian Radio", "Radio Promin", "Radio Culture". As of December 2021, the public broadcaster's radio programmes were distributed using 383 FM-frequencies. In general, the public broadcaster, in accordance with the existing licences, has the right to broadcast using 476 frequency assignments in three ranges: FM (87.5–108 MHz), VHF (65.8 – 74 MHz), medium waves (0.525 – 1.605 MHz). However, broadcasting is now possible only on 426 frequencies, since there are 50 frequency assignments in the temporarily occupied territories.

The broadcasts of three public radio programmes can also be listened to in the T-DAB digital standard in Kyiv. The Ukrainian PSB distributes its programmes on digital platforms as well. Thus, in 2021, in addition to accounts for new projects, 22 communities of regional branches and 2 in the central directorate were created in Viber – the community "Public News" and "Public Sport", as well as a Telegram channel about podcasts. Digital platforms of the public broadcaster are constantly developing. The National Council is obliged by law to organise and conduct the procedure for the

formation of the supervisory body of the NSTU – the Supervisory Board. The Supervisory Board is one of the key mechanisms aimed at ensuring the independence and transparency of the work of the public broadcaster, its openness, accountability and development. Members of the Supervisory Board are independent in their activities and are guided solely by the provisions of the legislation regulating the activities of the NSTU.

According to the Law of Ukraine "On Public Television and Radio Broadcasting of Ukraine", the Supervisory Board is formed from representatives of the public sector, as well as representatives of political factions and groups of the current session of the Verkhovna Rada of Ukraine. Members of the public as part of the supervisory authority elected at conferences from 9 public area should be at least one more. Currently, the Supervisory Board consists of 16 members – 9 from the public and 7 – delegated by parliamentary factions and groups.

The independence of public broadcasters is directly related to the independence of their financing. Sources of financing of the NSTU, in accordance with Article 14 of the above-mentioned Law, can be formed from the sale of their own TV and radio products, fees for the use of copyright and related rights, state and local budgets, subscription fees paid for the services of the NSTU in the manner prescribed by the Cabinet of Ministers of Ukraine (not yet established), other revenues are not prohibited by law. The state should ensure proper financing of the NSTU, which is envisaged in a separate line in the State Budget of Ukraine and is at least 0.2 percent of the expenditures of the general fund of the State Budget of Ukraine for the previous year.

Unfortunately, during 5 years of NSTU's activities, funding has never been provided in the entire amount. This is evidenced by the reports of the NSTU, published on the website of the broadcaster and on the web resources of the National Council.

However, if we analyse the entire period of existence of the NSTU media holding, 2021 was the best year in financial terms – with a budget of 85% of the law (which is almost UAH 1.9 billion out of UAH 2.2 billion). For the first time last year, public broadcasting received development expenditures or capital expenditures (almost UAH 36 million from the general fund and UAH 60 million from the special fund). This is money for the purchase of equipment, repairs, the purchase of broadcast rights.

The report on the activities of the joint-stock company "NSTU" for the past year provides the following information:

- financial support funds in the amount of UAH 1,872.21 million were used under the general fund;
- UAH 83.28 million were practically financed from a special fund;
- revenues from economic activities for 2021 totaled UAH 78.93 million.

It is a pity, but according to the adopted Budget of the country, the NSTU in 2022 should receive only 76% of the funding provided by law (UAH 1.87 billion) and again not allocated funds for capital expenditures. The Supervisory Board of the NSTU proposed a different model of financing of the Ukrainian public service broadcaster, but it did not find support in the government and the legislative body of the country.

As of 01 January 2022, 760 private broadcasters have been licensed. Private broadcasters are financed at their own expense. Licensing is accrued in accordance with the Methodology for calculating the size of the licence fee for issuing or extending the validity of the broadcasting licence, licences of a programme service provider, determination of the amount of payment for reissuing the licence and issuing a duplicate broadcasting licence, licence of a programme service provider (the Methodology of the License Fee), which is approved by the Decree of the Cabinet of Ministers of Ukraine dated of 13 April 2011 №412 (as amended). The public service broadcaster is financed in accordance with the Law of Ukraine "On the State Budget of Ukraine for the Current Year". The licence fee is paid by the applicant, that is, other entities cannot pay for broadcasters.

As of February 24, 2022, the State Register of Entities of Information Activities in the Area of Television and Radio Broadcasting includes data on the public service broadcaster, namely: JSC "National Public Television and Radio Company of Ukraine", Kyiv, which is a TV and radio organisation that broadcasts on national television channels, national broadcasting channels of a multichannel terrestrial TV network, on regional broadcasting channels of a multichannel terrestrial TV network and radio channels in accordance with the Law of Ukraine "On Public Television and Radio Broadcasting of Ukraine" and the terms of the broadcasting licence issued by the National Council.

There are 760 television and radio broadcasting organisations in Ukraine, of which 7 are state-owned, while others are privately and municipally owned. Most of the most famous and influential TV and radio organisations are privately owned. It is the private broadcasters that cover about 95% of the total advertising market and viewership.

The main source of income for private broadcasters comes from advertising, contributions and investments by owners of television and radio organisations, income from the sale of intellectual property, royalties and, in cases specified in the law, state or local budget funds, such as payment agreements between media and the relevant authorities for coverage of their activities.

Also in Ukraine, pursuant to Parliamentary Assembly of the Council of Europe Resolutions № R1346 (2003) on "Fulfilment by Ukraine of its obligations and commitments" and № 1466 on "Fulfilment of obligations and commitments by Ukraine" of 05 October 2005, a joint-stock company, the National Public Television and Radio Company of Ukraine, was established in January 2017 on the basis of 31 state television and radio companies, which is the only public broadcaster in Ukraine. The public broadcaster is financed from the state budget under a separate expenditure line. The Law of Ukraine "On Public Television and Radio Broadcasting of Ukraine" guarantees funding for the public broadcaster. The public broadcaster is also financed through international technical assistance projects and content exchange with other public broadcasters.

The state broadcasters are represented by the state-owned enterprise "Multimedia Broadcasting Platform of Ukraine" (TV channels "UATV" and "DOM"), the state-owned enterprise "Parliamentary TV Channel 'RADA (RADA TV channel), the Central Television and Radio Studio of the Ministry of Defence (radio station "ARMIA FM"). The state TV and radio companies are financed from the state budget as well as from other sources not prohibited by the law. In accordance with article 14 of the Law of Ukraine "On Public Television and Radio Broadcasting of Ukraine" the volume of advertising, teleshopping, sponsor information may not exceed 5 percent, and during the election time it may not exceed 10 percent of the actual volume of broadcasting within an astronomical day. The volume of advertising during an astronomical hour may not exceed 10 percent of actual broadcasting time, and during the election time it may not exceed 15 percent. The overwhelming majority of the

expenses of such TV and radio companies is covered by the state budget, while the funds, received from their economic activities, are directed to the development of TV and radio companies.

There are communal television and radio organisations in Ukraine, established by local self-government bodies and financed mainly from the local budgets. The vast majority of broadcasters speak in FM-band and have a small audience and a limited broadcasting territory.

It should be noted that any direct or indirect funding of television and radio organisations by political parties, trade unions, religious organisations is prohibited.

85. What are the criteria used for determining jurisdiction over audiovisual media services in Ukraine?

Article 5 of the European Convention on Transfrontier Television regulates the establishment of the jurisdiction of the intermediary.

Article 14 of the Law of Ukraine "On the National Radio and Television Broadcasting Council" contains the responsibilities of the regulator for granting the relevant licences to television and radio broadcasting organisations and providers of program services, Under Article 18 of this law is the sole and sufficient basis for broadcasting on the territory of Ukraine.

Under Article 23 (2) of the Law of Ukraine on Television and Radio Broadcasting, licensing of foreign broadcasting organisations is prohibited. This means that the subject is either operating on the territory of Ukraine and its activities fall under its jurisdiction or its television channels are rebroadcast in multi-channel cable or satellite networks or are received by the subjects individually, including through OTT technology.

The functioning and legal regulation of the activities of the National Radio and Television Broadcasting Council of Ukraine, which carries out licensing of broadcasting, is carried out under the Law of Ukraine "On the National Radio and Television Broadcasting Council of Ukraine, The Act is based on the principles of ensuring the independence of the state regulator in the field of broadcasting reflected in the Directive of the European Parliament and Council 2010/13/EC on Audiovisual Media Services of 10 March 2010, as amended by the Directive (EC) 2018/1808 of 14 November 2018.

In accordance with Article 11 of the Law of Ukraine "On Television and Radio Broadcasting", the structure of national television and radio broadcasting of Ukraine is formed by municipal TV and radio organisations, joint-stock company "National Public Television and Radio Company of Ukraine" (NSTU), state enterprise "Parliamentary TV channel "Rada", private (regardless of the method of distribution of programmes), public and other TV and radio organisations established in accordance with the requirements of the legislation. Article 12 of the same Law provides for the establishment of TV and radio organisations and requirements for their constituent and statutory documents, in particular:

- The right to establish TV and radio organisations as business entities in Ukraine belongs to legal entities of Ukraine and citizens of Ukraine, not limited in civil capacity.

- The ultimate beneficial owner (controller) of a multichannel TV network of programme service provider in the DVB-T, DVB-T2 standard, another standard for transmitting TV image using radio frequency resource for the purposes of digital terrestrial broadcasting can only be a citizen of Ukraine. Legal entities and individual entrepreneurs registered in offshore zones, the list of which is approved by the Cabinet of Ministers of Ukraine, as well as stateless persons, are prohibited from

participating in the programme service provider of a multichannel TV network in the DVB-T, DVB-T2 standard, another standard for the transmission of TV image using radio frequency resource for the purposes of digital terrestrial broadcasting at all levels of the corporate rights chain.

- Participation of foreign individuals and/or legal entities in the authorised capital of TV and radio organisations and programme service providers is regulated by law. The activities of TV and radio organisations, programme service providers referred to in part 2 of this Article shall be prohibited.

- The ownership structure of the entity of information activities in the area of TV and radio broadcasting is recognized as transparent if the information published on its official website and provided to the National Council allows to identify all persons who have direct and/or indirect significant participation in a legal entity or the possibility of significant or decisive influence on the management and/or activities of a legal entity, including control relations between all persons in the chain of ownership of corporate rights in relation to this legal entity, as well as determine the ultimate beneficial owner. Information on the ownership structure of the entity of information activities in the area of TV and radio broadcasting is posted on its official website in accordance with the requirements of this Law. The entity of information activities in the area of television and radio broadcasting annually submits to the National Council information about its ownership structure in the manner and form established by the National Council. In case of detection of a technical error in the information on the ownership structure submitted to the National Council, the entity of information activities in the area of television and radio broadcasting must correct it within two weeks.

- Constituent and/or statutory documents of a business entity that has a broadcasting licence or claims to obtain such a licence should provide for the creation of a special supervisory authority (editorial board, etc.), half of which is appointed by the founders or owners of a TV and radio organisation, and half is elected by the creative team of the broadcasting organisation.

- Failure to comply with the requirements specified in this Article is the basis for preventing the relevant broadcasting organisation from entering into a competition for the issuance of a broadcasting licence, refusing to issue and renewing a broadcasting licence, as well as refusing to issue and renew the licence of a programme service provider.

If the relevant circumstances arose or were discovered after the issuance or extension of the relevant licence, the National Council may apply to the court to revoke the broadcasting licence in accordance with paragraph “e” of part 5 of Article 37 of this Law or to revoke the licence of a programme service provider in accordance with Article 40 of this Law.

In addition, Ukraine is a state party to the European Convention on Transfrontier Television. Therefore, it is obliged to comply with the requirements of Article 5 of the Convention, which directly relate to the settlement of issues of the broadcaster's jurisdiction.

86. Are there any restrictions on reception or retransmission of audiovisual media services from other European States? Please refer to both television broadcasting and on-demand audiovisual media services.

Retransmission of TV and radio programme services and programmes is carried out taking into account Article 42 of the Law of Ukraine "On Television and Radio Broadcasting", in particular:

- Retransmission of television and radio programmes, the content of which meets the requirements of the European Convention on Transfrontier Television, is not limited in the territory of Ukraine.

- An entity under the jurisdiction of Ukraine that aims to retransmit programmes and has received permission from the right holder (manufacturer), which does not fall under the jurisdiction of a member state of the European Union or a state that has ratified the European Convention on Transfrontier Television, has the right to retransmit programme only if their content meets the requirements of the legislation of Ukraine, the European Convention on Transfrontier Television and under inclusion in the list of programmes for retransmission, by the decision of the National Council of Television and Radio Broadcasting of Ukraine.

In addition, on 18 November 2021, the National Council adopted a decision №1727 "On approval of the Procedure for the formation of the List of programmes of foreign TV and radio organisations that are retransmitted", which stipulates that a) 'the inclusion of television programmes in the List is carried out by the decision of the National Council on the basis of the documents provided and the results of official monitoring of the TV programme, b) television and radio programmes of foreign TV and radio organisations are included in the List, in case of compliance with the requirements of the European Convention on Transfrontier Television and the legislation of Ukraine.

In Ukraine, free reception is guaranteed and the retransmission of TV and radio programmes, the content of which meets the requirements of the European Convention on Transfrontier Television and the legislation of Ukraine, is not limited.

Information about foreign programs allowed for retransmission in Ukraine is posted on the website of the National Council at the link: <https://www.nrada.gov.ua/en/dlya-zarubizhnyh-movnykiv/>. Currently, the List contains 183 foreign programme services. The restrictions apply to the retransmission of television programs, the control over the content of which is carried out by residents of a country recognized by the Verkhovna Rada of Ukraine as an aggressor state or an occupying power, or those that systematically violate the requirements of the legislation of Ukraine. Regulation of foreign audiovisual services on demand in Ukraine, the National Council is not carried out.

87. Are there any specific measures applying to the retransmission of audiovisual media services in Ukraine?

The Law of Ukraine "On Television and Radio Broadcasting" contains a number of special norms concerning retransmission of audiovisual media services in Ukraine.

The media service provider must comply with the terms and conditions of the licence and the annexes thereto, receive and simultaneously transmit television and radio programs or essential parts of such programs of the broadcaster completely and without any modifications, offer subscribers the possibility to watch programs within the universal programs service. The media service provider is not allowed to retransmit programs and shows, which are prohibited and/or limited by court, or the content of which is declared by the National Council of Television and Radio Broadcasting to be incompatible with the requirements of the Ukrainian legislation in accordance with article 42 of the Law.

Please note that the application for a programme service provider licence must be accompanied by a general concept of the package (list) of programmes acquired for re-broadcasting and the documents confirming the acquisition and right to distribute (re-broadcast) programmes of another broadcaster.

Programmes of broadcasting organisations whose programme concept according to the broadcasting licence is based on educational and scientific programmes in one or more official languages of the European Union may be rebroadcast in Ukraine by providers of a programme service or other broadcasting organisations exclusively in a sound sequence in which the official languages are used. Union, Ukrainian or indigenous languages of Ukraine. The terms of the contract for rebroadcasting in the territory of Ukraine of programmes of such TV and radio organisations must contain the obligations of the programme service provider or another TV and radio organisation to select the language of the sound spectrum used in the re-broadcasting of programmes.

Restrictions on the re-broadcasting of TV and radio programmes are also contained in the response to question 86. Types, scope, and procedure for application of sanctions are determined in article 72 of the Law of Ukraine “On Television and Radio Broadcasting”. The National Television and Radio Broadcasting Council of Ukraine may impose the following sanctions against software service providers: warning notice; penalty; cancellation of licence due to a court decision based on the claim of the National Television and Radio Broadcasting Council of Ukraine. Amount of penalty is individual and depends on the type of offence (from 5 to 25 percent of the licence fee). However, should the violation have not been removed upon the application of sanctions in the form of the penalty, the National Television and Radio Broadcasting Council of Ukraine may claim to the court for cancellation of the software service provider licence.

88. Please provide details of any international commitment(s) which may affect audiovisual services, in particular, in the framework of Ukraine's accession to the WTO.

Ukraine has been a member of the WTO since 16 May 2008.
https://www.wto.org/english/thewto_e/countries_e/ukraine_e.htm

Exemptions are applied to Trade in Audiovisual Services and are listed in the GATS/EL/144 document “Final List of Article II (MFN) Exemptions” (<https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=Q:/SCHD/GATS-EL/EL144.pdf&Open=True>) as follows:

Sector or sub-sector	Description of the measure indicating its inconsistency with Article II	Country or countries to which the measures apply	Intended duration	Conditions creating the need for the exemption
----------------------	---	--	-------------------	--

Audiovisual Services - Production and distribution of audiovisual works through broadcasting and other forms of transmission to the public	Measures, which define works of European origin, in such a way as to extend national treatment to audiovisual works which meet certain linguistic and origin criteria regarding access to broadcasting or similar forms of transmission.	Parties to the Council of Europe Convention on Transfrontier Television or other European countries with whom an agreement may be concluded	Indefinite	The measures aim, within the sector, to promote cultural values both within Ukraine, and with other countries in Europe, as well as achieving linguistic policy objectives.
Audiovisual Services - Production and distribution of cinematographic works and television programs	Measures based upon government-to-government framework agreements on co-production of audiovisual works, which confer national treatment to audiovisual works covered by these agreements, in particular in relation to distribution and access to funding.	All countries with which cultural cooperation may be desirable.	Indefinite	The aim of such agreements is to promote cultural links between the countries concerned.
Audiovisual Services - Production and distribution of television programs and cinematographic works	Measures granting the benefit of any support programs (such as Action Plan for Advanced Television Services, MEDIA or EURIMAGES) to audiovisual works, and suppliers of such works, meeting certain European origin criteria.	European countries	Indefinite.	These programs aim at preserving and promoting the regional identity of countries within Europe, which have

89. What (if any) are the provisions in the audiovisual legislation setting standards in the fields of audiovisual commercial communications?

Ukrainian legislation does not contain a separate notion of audiovisual commercial communications. At the same time, the legislation contains norms to regulate advertising, sponsorship and telesales.

All of these issues are regulated by the following legal acts:

- Law of Ukraine "On Television and Radio Broadcasting" (in particular, Article 6 regarding inadmissibility of abuse of freedom of activities of TV and radio organisations)
- The Law of Ukraine "On Advertising"
- The Law of Ukraine "On Copyright and Related Rights"
- The Law of Ukraine "On Cinematography"
- The European Convention on Transfrontier Television (as part of national legislation)

In Ukraine, TV advertising may not constitute more than 15% of total broadcasting time; the norm is valid for every hour of broadcasting. There are clear rules for showing advertisement in films (the first insertion of an advertisement must not be made earlier than 30 minutes from the beginning, and thereafter - no more than 20 minutes), news (news cannot be interrupted by advertisements), and children's programs (children's programs cannot be interrupted by advertisements).

Alcohol advertisements are permitted from 23:00 till 6:00 and there are certain restrictions on the content (famous athletes, stars, children cannot be used, understanding the preferences of those who drink alcohol). However, sponsorship of alcohol brands is not prohibited, the display of sponsorship commercials is not limited in time, but is limited in content (you cannot demonstrate the process of drinking, you cannot show the bottle, you cannot add the type of drink).

The National Council monitors and enforces the requirements of the Law of Ukraine "On Advertising" regarding sponsorship and the procedure for the distribution of advertising on television and radio broadcasting within the limits of its statutory authority. Content requirements for advertising are regulated by the Law of Ukraine on Advertising.

General requirements to advertising are established in Article 8 of the Law of Ukraine "On Advertising", e.g., advertising is prohibited to:

- disseminate information about goods whose production, circulation or import into the customs territory of Ukraine is prohibited by law;
- contain statements and/or images that discriminate on the basis of origin, social and property status, race, nationality, gender, education, political views, attitude to religion, language, type and nature of occupation, place of residence, as well as discredit the goods of others;
- give information or call for actions that may breach the law, cause or are likely to cause damage to health or life of persons and/or the environment, as well as incite to disregard for safety measures;
- use means and technologies that work on the subconsciousness of the consumers of advertising;
- make statements that discriminate against persons who do not make use of the advertised product;

- to use or imitate images of the State Emblem of Ukraine, State Flag of Ukraine, sound of the State Anthem of Ukraine, images of state symbols of other states and international organisations as well as official names of state and local authorities, except cases provided by the laws of Ukraine on intellectual property;

- advertise goods subject to obligatory certification or the production or sale of which requires a special permit, licence, in the absence of the relevant certificate, permit, licence;

- to contain an image of a natural person or use a person's name without a written consent of this person;

- imitate or copy text, images, music or sound effects used in advertising other goods, unless otherwise provided by the laws of Ukraine in the field of intellectual property;

- advertise services related to concert, touring, tour-concert, competition, festival activities without information about the use or non-use of phonograms by performers of musical works. This information must occupy at least 5 percent of the total space, volume of all advertising on posters and other promotional media for a particular service;

- to distribute advertisements (including announcements of cinema and TV films) containing elements of cruelty, violence, pornography, cynicism, humiliation of honor and dignity. Announcements of films with no viewer restriction are placed only during the time allotted for the showing of such films;

- to distribute advertisements for the construction of a housing facility using non-state funds raised from individuals and legal entities without observing the rules established by law;

- to distribute advertisements for divination and fortune-telling services.

Article 13 of the Law of Ukraine "On Advertising" sets out requirements for advertising on television and radio, in particular concerning, inter alia, the manner and procedure for its dissemination.

On television, the broadcasting time set aside for advertising and television sales may not exceed 15 per cent during each astronomic hour of actual broadcasting.

On radio broadcasting, the time allocated to advertising may not exceed 20 per cent for each astronomical hour of actual broadcasting.

Advertising shall be placed in the breaks between programs, broadcasts.

It is prohibited to interrupt, for the purpose of placing advertising, broadcasts of sessions of the Verkhovna Rada of Ukraine, sessions of the Verkhovna Rada of the Autonomous Republic of Crimea, official state events and ceremonies, and speeches by the President of Ukraine, the Chairman of the Verkhovna Rada of Ukraine, the Prime Minister of Ukraine, the Chairman of the Constitutional Court of Ukraine, the Chairman of the Supreme Court of Ukraine, Members of the Parliament of Ukraine, members of the Government of Ukraine, as well as broadcasts of religious services.

The broadcast of concert and entertainment programmes and broadcasts may be interrupted by advertising, provided that the programme or broadcast lasts no less than 20 minutes between commercials.

Advertising in the broadcast of a sports programme or a programme shall be placed in between its parts. The broadcasting of programmes and broadcasts for children (with their duration up to 30

minutes) cannot be interrupted by advertisements. The broadcasting of programmes, broadcasts for children (with their duration exceeding 30 minutes) and news programmes can be interrupted with advertisements not more often than once every 30 minutes. The broadcasting of films and TV films may be interrupted by advertisements not more often than once every 30 minutes. Broadcasts of other films, including single episodes, serials, documentaries, etc., may be interrupted by advertisements no more frequently than once every 20 minutes of speech time.

The broadcasting (re-broadcasting) of advertisements contained in programmes and broadcasts of foreign TV and radio organisations broadcasting (re-broadcasting) in Ukraine, if the foreign TV and radio organisations are not under the jurisdiction of European Union member states or states that have ratified the European Convention on Transfrontier Television is prohibited.

Broadcasting (retransmission) of advertisements contained in programmes and broadcasts of foreign TV and radio organisations falling under the jurisdiction of European Union member states or states that have ratified the European Convention on Transfrontier Television, which are broadcast (retransmitted) in Ukraine, is allowed only if a Ukrainian legal entity is paid for the broadcast (retransmission) of such advertisement, regardless of the method of such broadcast (retransmission).

It is prohibited for providers of a programme service to place advertisements in the programmes and broadcasts of foreign TV and radio organisations. Under paragraph (e) of part one of Article 59 of the Law of Ukraine "On Television and Radio Broadcasting", a television and radio organisation must comply with the rules of advertising activities and sponsorship established by law. In the event of a breach of the requirements, the National Council, within the limits of its authority, applies sanctions or, in the event of evidence of violations of the content of advertising, sends information to the competent authority for the adoption of accountability measures.

It is prohibited to include any information of a promotional nature about the sponsor and/or its goods, other than the name or name and mark for the goods and services of the sponsor, in the television or radio broadcasts.

It is also prohibited to use any advertising or promotional text and/or sound bites about the sponsor (the alcoholic beverage industry), its name(s) and/or the sponsor's mark for the goods or services in a television broadcast.

In addition, persons producing or distributing goods, the advertising of which is prohibited by law, as well as goods the production and/or circulation of which is prohibited by law, may not be sponsors.

The programme or broadcast, produced with the sponsor's support, must be identified with captions or narration at the beginning and/or end of the programme or broadcast.

Sponsorship of programmes and news programmes is prohibited.

The Law of Ukraine "On Advertising" stipulates that a telesale is a direct public offer to conclude a contract of sale for a particular product broadcast on television. A telesale must contain necessary, accessible, reliable audiovisual information about the goods offered and must not induce children to enter into contracts for the sale or rental of goods.

90. Has a list of major events to be broadcast on free-to-air television been adopted? Has any measure been taken concerning access by other broadcasters to events of high interest to the public which are transmitted on an exclusive basis by a broadcaster?

Law of Ukraine "On TV and Radio Broadcasting" contains obligations on free-to-air broadcasting (Article 49).

For state funded TV and radio companies there is an obligation to provide free-to-air official emergency announcements of the President of Ukraine, Head of Parliament, Prime minister, Head of Constitutional court.

For all types of media - to provide free-to-air for emergency announcements of the special responsible services or state authorities.

The Law of Ukraine "On public TV and video broadcasting" contains provisions where UA:PBC has obligations to provide free to air for such purposes (Article 20):

1) New year greeting of the President of Ukraine

2) Official emergency announcements of the President of Ukraine, Head of Parliament, Prime minister, Head of Supreme court, Head of Constitutional court.

Provisions of the art. 46 of the Draft Law of Ukraine "On Media" №2693-d has an obligation of the broadcaster, which has exclusive rights for events of high interest to provide access to other broadcasters with the aim to inform their audiences about such events. Such broadcasters will be able to voluntarily select episodes up to 90 seconds.

Despite the absence of such provisions in current law Ukrainian public broadcaster UA:PBC, which has exclusive rights of the major sport events or other events under European broadcasting union (Eurovision etc.) grants such access to other media under the principles of AVMS Directive and agreements or licenses for such events on non-discriminatory basis.

91. What (if any) regulatory measures are used to encourage or require the audiovisual media services of, or the investment in, certain types of programmes (e.g. cultural, educational) or programmes of specific geographical, linguistic or sectoral origin (independent productions, European works, national works, programmes made or broadcast in certain languages etc.)?

Regarding incentives. In accordance with the Law of Ukraine "On Television and Radio Broadcasting of Ukraine", television and radio organisations and programme service providers must pay a licence fee to obtain a licence, the amount of which may vary from several thousand hryvnia to several million hryvnia, depending on the type of broadcasting, duration of average daily volume of broadcasting, territory, signal distribution, transmitter capacity.

At the same time, radio and television organisations and providers of programme services may pay a reduced amount of the licence fee, if the following conditions are met:

if a TV and radio organisation in its programme content uses predominantly (more than 80 percent of the total broadcasting volume) programmes of national production and/or children's, educational programmes of national production for at least 3 hours a day, or at least 15 percent of the total broadcasting volume, if the latter is less than 24 hours a day (the fee is reduced by 30 percent);

if a television and radio organisation plan to broadcast in terrestrial multi-channel digital television networks (the amount of the licence fee is reduced by 90 per cent);

if a programme service provider intends to use BTT technology (the licence fee is reduced by 80 per cent).

Also, in order to support the cinema sphere, including the sphere of television, amendments to the Tax Code of Ukraine were introduced that provide for exemption from taxation of the value-added tax on transactions:

on the supply of services for the demonstration, distribution, exhibition and/or public announcement of national films and foreign films, dubbed, dubbed by the state language in Ukraine, by exhibitors, distributors and/or broadcasting organisations (public announcements) (until 01 January 2023);

for the supply of national films by producers, demonstrators and distributors of national films (until 01 January 2025)

for the supply of works and services for the production of national films (until 01 January 2025); and

in the supply of works and services for the distribution of national films and foreign films dubbed and dubbed in the state language in Ukraine (until 01 January 2025)

works and services for dubbing and dubbing of foreign films in the state language in Ukraine (until 01 January 2025)

Procurement of works and services for the preservation, restoration and restoration of the national cinematographic heritage (until January 1, 2025)

on delivery of services of demonstration, distribution and demonstration by exhibitors and distributors of national films and foreign films, dubbed, dubbed in the state language in Ukraine, provided that such national films and foreign films are adapted in accordance with the law in Ukrainian-language versions for visually impaired and hearing-impaired people (from 1 January 2023 to 1 January 2025).

Regarding obligations. The Law of Ukraine "On Television and Radio Broadcasting" contains a number of special norms aimed at protecting the interests of the state and national television and radio production.

The national audiovisual product - programmes, films, audiovisual works, produced by natural or legal persons of Ukraine - must account for at least 50 percent in the total broadcasting volume of each TV and radio organisation.

Also, when broadcasting, radio and television organisations have to ensure a share of songs (verbal and musical works) in the state language in the volume of not less than 35 percent of the total volume of songs distributed during a day, as well as not less than 35 percent of the total volume of songs distributed in each time interval between 07.00 and 14.00 and between 15.00 and 22.00. There is, however, an exception to this rule providing that in the case of radio broadcasting, television and radio organisations which, under licence conditions, broadcast musical works in which the proportion of songs in the official languages of the European Union amounts to at least 60 per cent of the total number of songs broadcast in each 24-hour period, as well as at least 60 percent of the total number of songs broadcast in each hour between 07.00 and 14.00 and between 15.00 and 22.00 must ensure a proportion of songs in the state language of at least 25 per cent.

At the same time, when broadcasting television and radio organisations provide not less than

60 percent of the daily volume of broadcasts, including news and analytical blocks, entertainment broadcasts (by announcers, radio hosts) in the official language (in Ukrainian).

In the total weekly volume of broadcasting of television and radio organisations that, under licences, broadcast on air and/or multi-channel (digital) broadcasting using radio frequency resource: nationwide and regional broadcasting categories, programmes and/or films made in the state language must account for at least 75 per cent of the total duration of programmes and/or films (or parts thereof) in each time slot between 07.00 and 18.00 and between 18.00 and 22.00. The relevant norm also applies to television and radio organisations broadcasting by satellite and whose programmes are retransmitted by programme service providers in multi-channel television networks in more than one area; local broadcasting category, programmes and/or films in national language shall not be less than 60 percent of the total duration of the programmes and/or films (or parts thereof) in each time slot between 07.00 and 18.00 and between 18.00 and 22.00. The relevant norm also applies to TV and radio organisations broadcasting satellite and programmes rebroadcast by programme service providers in multi-channel TV networks exclusively in one area.

The above-mentioned TV and radio organisations also ensure the share of news broadcasts in the state language to the extent of not less than 75 per cent of the total duration of all news programmes aired by the TV and radio organisation in each period between 07.00 and 18.00 and between 18.00 and 22.00.

At the same time, the Law contains a list of exceptions where the obligatory share of broadcasting in the state language is not applied to television and radio organisations, such as television and radio organisations whose programme concept, according to their broadcasting licences, is based on educational and scientific programmes in one or more of the official languages of the European Union, or television and radio organisations whose programme concept, according to the licence issued by the National Council, broadcasts by satellite, the programme concept of which is subordinated to that language.

In addition, broadcasters and programme service providers shall pay a 30 per cent higher licence fee if the share of foreign-produced programmes in the total broadcasting concept is more than 30 per cent (for television and radio organisations);

The share of foreign-produced programmes in the total package concept (list) of programmes purchased for re-broadcasting is more than 50 per cent (for programme service providers).

It should be noted that Article 5 of the Law of Ukraine "On Public Television and Radio Broadcasting of Ukraine" stipulates that a public broadcaster must broadcast, among others, a nationwide terrestrial digital television channel and a nationwide cultural and educational radio channel.

92. What (if any) are the regulations covering other audiovisual services, in particular interactive, on-demand audiovisual media services, including Internet?

In the current Law of Ukraine "On Television and Radio Broadcasting" there is no such separation. Currently, the draft Law of Ukraine "On Media" has been developed (register №2693-d dated of 02 July 2020), which is awaiting consideration by the Verkhovna Rada of Ukraine.

Ukraine's legislation previously regulates the sphere of traditional media (television, radio, cinema), such as the Law of Ukraine "On Television and Radio Broadcasting" and the Law of Ukraine

"On Cinema". The Law of Ukraine "On Electronic Communications" regulates the general provision of Internet access services to the population.

In accordance with the Law of Ukraine "On Television and Radio Broadcasting", broadcasting is the creation (bundling and/or packaging) and distribution of programs, program packages, transmissions, using technical means of electronic communications for public reception by means of household television and radio receivers openly or for a subscriber fee on a contractual basis.

In the process of enforcing norms in different fields of provision of information services to the population, the provisions of various normative legal acts are applied.

There are a number of VoD providers which operate in Ukrainian markets both local and international. If a VOD provider obtains a licence of a software service provider, the body responsible for control and monitoring of activities of this provider will be the National Council on Television and Radio Broadcasting of Ukraine. They provide services based on AVMSD principles or principles of protection of minors (parent control).

93. What rules and regulations govern public and private television broadcasting? What rules ensure the editorial independence of the public broadcaster? Please refer to the source of financing of the public broadcaster.

The general regulation of public and private broadcasting is based on the Law of Ukraine "On Television and Radio Broadcasting" which contains equal conditions for all broadcasters.

The procedure for establishing, the status, the order of formation of governing and supervisory bodies of the public broadcaster are determined by the Law of Ukraine "On Public Television and Radio Broadcasting of Ukraine".

The editorial policies of the public broadcaster are protected by the following rules:

This law prohibits the interference of state or local self-government bodies, their officials and officers as well as non-governmental organisations with the activities of NTRC for the purpose of establishing censorship, prior control and unlawful influence on the content of information disseminated by the public broadcaster.

The Supervisory Board of the public broadcaster is formed by one representative from each parliamentary faction and group of the Verkhovna Rada of Ukraine of the current convocation and nine members from public associations and unions, whose core activities are activities in education and science, national minority rights, physical education and sports, journalism, human rights, children and youth protection, creative industries, local self-government, protection of rights of persons with disabilities and the rights of citizens.

The Public Service Broadcaster shall be provided with an editorial board comprising fifteen persons: five persons appointed by the Supervisory Council, five persons elected by the general meeting of the creative staff of the Public Service Broadcaster and five persons appointed by the editorial board conferences of the Public Service Broadcaster's regional branches.

The editorial board shall be entrusted with:

- 1) drafting and submitting an editorial charter to the supervisory board for approval;
- 2) monitoring the observance of the editorial charter by television and radio journalists;

3) control of observance of the rights of TV and radio journalists, requirements to the prohibition of censorship and interference in editorial and professional activities;

4) to submit to the Supervisory Board the issue of removal of officials from the management of the television and radio company or its separate divisions, who have violated the editorial charter and/or the requirements of legislation on the rights of television and radio journalists, prohibition of censorship and interference in the editorial and professional activities of the television and radio company, the appointment of an official investigation and dismissal of these persons in accordance with law and this Charter in case the above violations are confirmed.

The state ensures proper financing of the public broadcaster which is stipulated as a separate line in the State Budget of Ukraine and makes up at least 0.2 percent of the expenditures of the general fund of the State Budget of Ukraine for the previous year. At the same time, at present, funding of the public broadcaster is provided in the manner and amounts established by the Cabinet of Ministers of Ukraine, based on available financial resources of state and local budgets and budgets of obligatory state social insurance funds, as stated in the Budget Code of Ukraine.

94. What are the legal provisions governing exclusive rights for the broadcast of major events (cultural, sporting, parliamentary sessions etc.)?

Article 13 of the Law of Ukraine "On Television and Radio Broadcasting" includes:

- prompt informing viewers and radio listeners about socio-political and other events in Ukraine and abroad, about emergencies and situations that pose a threat to the life or health of the population, publication of official reports, clarification of decisions of state authorities and local self-government bodies;
- creation and distribution of economic, journalistic, cultural and educational, medical and hygienic, artistic, educational, entertainment, sports programs, as well as programs for children and youth.

The issue of the distribution of official notifications and other mandatory information is regulated in Article 49 of the Law of Ukraine "On Television and Radio Broadcasting", in particular:

- State and municipal TV and radio organisations are obliged to transmit free of charge official notifications of the Verkhovna Rada of Ukraine, the President of Ukraine, the Cabinet of Ministers of Ukraine and the Constitutional Court of Ukraine, official notifications of the Verkhovna Rada of the Autonomous Republic of Crimea, local self-government bodies and local executive authorities - to the territory subordinated to them.
- TV and radio organisations, regardless of ownership, are obliged to publish emergency reports free of charge. The right to use television and radio broadcasting for this purpose belongs to the authorities and officials authorised to make decisions in emergency situations.

To cover the activities, including plenary sessions, of the Verkhovna Rada of Ukraine, the Parliamentary TV channel Rada, whose founder is the Verkhovna Rada of Ukraine, operates within the structure of national television and radio broadcasting. At the same time, other television and radio organisations have the right to cover parliamentary activities, including rebroadcasting parliamentary sessions.

It is worth noting that the legislation does not contain provisions for broadcasting important

events. Relevant issues are regulated by contracts, subject to the requirements of protecting intellectual property rights provided by the Civil Code of Ukraine and the Law of Ukraine "On Copyright and Related Rights".

C. Cinema

95. Please indicate the estimated overall amount of the audiovisual industry sector for 2021. What are (if any) the financial support systems in place for the audiovisual sector (including cinema)?

On 09 November 2015, Ukraine signed an agreement on participation in the European Union's Creative Europe programme, which aims to support the cultural, creative and audiovisual sectors. The Creative Europe programme consists of three sub-programmes: Culture, Media and Cross-sectoral. The Creative Europe programme provides financial support only to those projects that fulfil the tasks set before it, namely:

- strengthening the sector and building capacity;
- audience formation;
- development of new business models;
- creation and support of virtual projects.

In addition, projects should contribute to the achievement of Creative Europe's priority objectives, which include:

- strengthening the capacity of the sector in terms of functioning at the international level;
- stimulating the international distribution of works and operators of the industry, as well as gaining new audiences both in Europe and abroad;
- encouraging the use of innovative and creative approaches;
- strengthening the financial potential of the sector;
- strengthening decision-making mechanisms.

The MEDIA sub-programme, implemented under the Creative Europe programme, provides financial support for the development, shared and promotion of the film and audiovisual industries of the European Union, as well as promotes projects of European scale and development of new technologies. Through this sub-programme, European films and audiovisual works, including feature films, TV series, documentaries and new media, enter new markets beyond national and European borders; as well as funding for training and film projects.

The main sources of funding for the film industry in Ukraine:

- Ukrainian State Film Agency;

- Ministry of Culture and Information Policy of Ukraine;
- Ukrainian Cultural Foundation;
- private organisations;
- international organisations.

In 2021, the state budget provided UAH 572 858 100,00 (five hundred seventy-two million eight hundred fifty-eight thousand one hundred hryvnias) of state support of cinematography. 51 (fifty one) films have been created, 108 (one hundred eight) - are still in production.

According to Article 7 of the Law of Ukraine “On State Support of Cinematography in Ukraine” state support of cinematography in Ukraine shall be provided in the following forms:

1) carrying out a public procurement of commodities, works and services necessary for production (creation) of documentaries, educational, animated films, films for children (with consideration for artistic and cultural significance), films of artistic and cultural significance (auteur films) and debut films, in the amount of up to 100% of the total estimated cost of production of the relevant film;

2) providing a state subsidy for the production (creation) of a film (feature, animation, etc.), the amount of which may not exceed 80% of the total estimated cost of film production. A mandatory condition for granting such a subsidy shall be the confirmation by the applicant that he/she has the necessary funds to finance the production of the film, in the amount of at least 20% of the total estimated cost of production (creation) of the relevant film;

3) providing a state subsidy for the production (creation) of a television film, television series, the amount of which may not exceed 50% of the total estimated cost of production of a television film, television series. A mandatory condition for granting such a subsidy shall be the confirmation by the applicant that he/she has the necessary funds to finance the production of the television film, television series, in the amount of at least 50% of the total estimated cost of production (creation) of the relevant television film, television series;

4) providing a state subsidy to partially return the qualified expenses incurred by a foreign entity engaged in cinematography during the production (creation) of a film following the procedure provided for by this Law;

5) providing a state subsidy for the purchase of mobile digital units, vehicles to ensure the demonstration of national films in small towns, villages, settlements with population of no more than 250 thousand inhabitants or electronic cinema units, the amount of which may not exceed 50% of the cost of the corresponding units;

6) providing of a state subsidy to finance fundamental and applied research, as well as educational activities in the field of cinematography, including the production (creation) of films by students, studying in Ukraine and abroad, etc.;

7) providing a state subsidy for the distribution and/or promotion of national films by full or partial payment of expenses for holding creative meetings, presentations, premieres, advertising (regardless of the advertising tools used) and other necessary activities, including with the participation of creative teams of films;

8) providing a state subsidy to pay for the measures to preserve, renew, restore and promote national cinematic heritage, its return to Ukraine, if it is located abroad, as well as to pay for the production of archival sets of national films source materials that meet modern technological requirements for long-term conservation storage of an archival set of source materials, reference materials and film copies of all national films in the State film fund of Ukraine;

9) reimbursement to the entities engaged in the cinematography of interest paid on bank loans that were received by them for the construction and/or reconstruction of buildings, structures and other infrastructure facilities that will be involved in the production of films, or for the construction and/or reconstruction, and/or technical re-equipment of cinemas in localities with a population of up to 250 thousand inhabitants;

10) providing a state subsidy for holding events of film commissions aimed at promoting locations in Ukraine as an attractive place for creating cinematic and audiovisual products.

The forms of state support of cinematography enlisted are not exhaustive. Additional forms of state support of cinematography may be established by the Cabinet of Ministers of Ukraine.

The amount of funds allocated during each budget period to finance state support in each of the forms provided for in part 1 of this Article shall be determined by the Council for state support of cinematography and may be changed by its decision within the corresponding budget period.

96. What legal regime applies to radio sound broadcasting?

The legal regime for broadcasting is similar to television broadcasting (a competitive procedure regulated by the Law of Ukraine “On Television and Radio Broadcasting”). Certain exceptions to the general rules stem from broadcasting technology, such as the need to comply with language quotas when disseminating musical songs and the requirement to transmit call signs during broadcasting.

With regard to the established language quotas for broadcasting, see response to question 91.

97. What limitations (if any) are there on the ownership of television and/or radio stations? Are there any specific limitations to foreign investors? What is the legal framework on the ownership of television and/or radio stations?

Ownership of television and radio organisations is regulated by both general and special legislation of Ukraine. The main legal acts regulating this issue are the Commercial Code of Ukraine and the Law of Ukraine "On Television and Radio Broadcasting".

Article 12 (1) of the Law "On Television and Radio Broadcasting" provides that the right to establish television and radio companies as economic entities in Ukraine belongs to Ukrainian legal entities and citizens of Ukraine who are not limited in their civil legal capacity.

Article 12 (3) of the mentioned Law establishes the provision according to which the participation of foreign individuals and/or legal entities in the charter capital of television and radio organisations is regulated by law.

Article 12 (2) of the Law of Ukraine "On Television and Radio Broadcasting" prohibits founding and participating in television and radio organisations in Ukraine, in particular:

- legal entities and natural persons - entrepreneurs registered in offshore zones, the list of which is approved by the Cabinet of Ministers of Ukraine, as well as stateless persons;

- Individuals and legal entities that are residents of the state recognized by the Verkhovna Rada of Ukraine as an aggressor state or an occupant state, as well as legal entities whose participants (shareholders) are such legal entities or individuals, at all levels of the chain of ownership of the corporate rights of a television or radio organisation or a programme service provider and the ultimate beneficiaries.

According to Article 12 (2) of the Law of Ukraine "On Television and Radio Broadcasting", the ultimate beneficial owner (controller) of the provider of program service of multi-channel television network in the DVB-T, DVB-T2, other standard for television image transmission using the radio frequency resource for digital terrestrial broadcasting purposes may only be a citizen. Legal entities and individuals - entrepreneurs registered in offshore zones, a list of which is approved by the Cabinet of Ministers of Ukraine, as well as stateless persons are prohibited from participating in the provider of program services multi-channel television network in the standard DVB-T, DVB-T2, other standard transmission of television image using radio frequency resource for the purposes of digital terrestrial broadcasting at all levels of the chain of ownership of corporate rights.

In addition, the activities of television and radio organisations founded and/or participated in by the above mentioned persons are also prohibited (Article 12 (3) of the Law of Ukraine "On Television and Radio Broadcasting").

Article 19 (4) of the Law of Ukraine "On Television and Radio Broadcasting" provides that foreign investments as a source of financing for television and radio broadcasting organisations are permitted in the manner prescribed by legislation of Ukraine and part 3 Article 12 of this Law.

Article 23 (2) of the Law of Ukraine "On Television and Radio Broadcasting" prohibits licensing broadcasting by foreign television and radio organisations.

Article 63 (2) of the Economic Code of Ukraine stipulates that if the foreign investment in the statutory capital of the enterprise is not less than ten percent, it is recognized as an enterprise with foreign investment. An enterprise in which authorised capital foreign investment amounts to one hundred percent is considered a foreign enterprise.

Thus, only legal entities and citizens of Ukraine not limited in civil capacity may be founders of TV and radio organisations in Ukraine. At the same time, the participants of TV and radio organisations may be both legal entities of Ukraine and citizens of Ukraine not limited in civil capacity, as well as foreign investors. Exceptions are those registered in offshore zones, the list of which is approved by the Cabinet of Ministers of Ukraine, stateless persons, as well as individuals and legal entities resident in the state recognized by the Verkhovna Rada of Ukraine as an aggressor state or an occupant state, as well as legal entities whose participants (shareholders) are such legal or natural persons, at all levels of the corporate ownership chain of the TV and radio organisations and the ultimate beneficiaries.

D. Film heritage

98. What legislative, administrative or other appropriate measures have been adopted to ensure that cinematographic works forming part of the audiovisual heritage are systematically collected, catalogued, preserved, restored and made accessible for educational, cultural, research or other non-commercial uses of a similar nature, in all cases in compliance with copyright and related rights?

According to Article 5 of the Law of Ukraine “On Cinematography”, preserving national and world cinematographic heritage is one of the main principles of cinematography.

According to the first part of Article 9-2, paragraph 8 of the Law of Ukraine “On Cinematography”, facilitating the preservation and rational use of the national and world cinematographic heritage belongs to the powers of the central body of executive power implementing the state policy in the field of cinematography.

According to the first part of Article 15-2 of the Law of Ukraine “On Cinematography”, to facilitate film-making in Ukraine and viewers' access to works of the cinematographic heritage of the television organisation, which carry out television broadcasting or multi channel broadcasting with the use of the radio frequency resource under the relevant licence, other film exhibitors other than television organisations, shall be obliged to screen national films, other films made by cinematographic entities of Ukraine and works of the national cinematographic heritage for at least 15 percent of the total monthly time of film screening until 1 January 2022, and at least 30 percent of the total monthly time of film screening after 1 January 2022.

According to the third paragraph of Article 17 of the Law of Ukraine “On Cinematography”, all films and film materials of Ukrainian making and co-production stored in the State Film Fund of Ukraine shall be the nationwide property of Ukraine, the national cultural heritage.

According to the first part of Article 5 of the Law of Ukraine “On State Support of Cinematography in Ukraine”, the state shall ensure and encourage the preservation, renewal, restoration of national and best examples of world cinematic heritage, take measures to return to Ukraine the national cinematic heritage that is beyond its borders, as well as contribute to the protection of intellectual property rights.

According to the first part of Article 7, paragraph 8 of the Law of Ukraine “On State Support of Cinematography in Ukraine”, providing a state subsidy to pay for the measures to preserve, renew, restore and promote national cinematic heritage, its return to Ukraine, if it is located abroad, as well as to pay for the production of archival sets of national films source materials that meet modern technological requirements for long-term conservation storage of an archival set of source materials, reference materials and film copies of all national films in the State film fund of Ukraine is one of the forms of State support of cinematography.

According to paragraph 197.25 of Article 197 of the Tax Code of Ukraine, operations on importation into the customs territory of Ukraine in the customs regime of import of goods that are part of the national cinematographic heritage are exempt from taxation.

Also, according to paragraph 12 of subsection 2 of section XX of the Tax Code of Ukraine, transactions for the supply of works and services for preservation, restoration and restoration of national cinematic heritage are temporarily, until January 1, 2025, exempt from value-added tax.

According to paragraph 60 of subsection 2 of section XX of the Tax Code of Ukraine, operations of cinematographic entities that receive state support in accordance with the Law of

Ukraine “On State Support of Cinematography in Ukraine” are exempt from value-added tax on import into the customs territory of Ukraine under the customs regime of import of goods included in the national cinematographic heritage, and goods intended for use in cinematographic activities, classified by UCT ZED (Ukrainian classification of foreign economics goods) codes 3706, 3920 73 10 00, 3923 40 10 00, 8525, 8529, 9002, 9007, 9010, 9405.

According to Article 30 of the Law of Ukraine “On Copyright And Related Rights”, the expiration of the term of copyright with respect to works shall mean their falling into the public domain. Works that have fallen into the public domain can be used freely by any person without payment of the author's remuneration subject to observance of the author's personal moral rights stipulated in Article 14 of this Law.

The Cabinet of Ministers of Ukraine may prescribe special deductions to the funds of artist unions of Ukraine for the use in the territory of Ukraine of works that have fallen into the public domain.

According to Article 23 of the Law of Ukraine “On Copyright And Related Rights”, it is permitted without the consent of the author or other copyright holder to reproduce excerpts from published written works or audiovisual works as illustrations for education, provided that the extent of the reproduction is consistent with said purpose.

According to Article 21 of the Law of Ukraine “On Copyright And Related Rights”, free use of literary works and works of art to the extent justified by the intended purpose as illustrations in publications, broadcasts, sound recordings or video recordings of an educational nature is permitted without the consent of the author (or another copyright holder), but with mandatory identification of the author's name and the source of borrowing.

99. How is the notion of cinematographic works forming part of the audiovisual heritage defined?

All films and film materials of Ukrainian production and co-productions stored in the State Fund of Films of Ukraine are the national property of Ukraine - the national cultural heritage.

There is currently no definition of the term “national cinematic heritage” in the current legislation of Ukraine. At the same time, the concept of “national cinematographic heritage” can be defined as a set of films, film copies and film materials created by Ukrainian cinematographers in Ukraine or/and abroad, as well as films, film copies and film materials created outside Ukraine, at the expense of private or state producers of films of artistic or historical value and related to Ukraine by theme, place of action, etc., or whose author is (was) a resident of Ukraine or is of Ukrainian origin. The national cinematographic heritage may include the following items: films and film materials on film copies, paper (archival documents, etc.) and other media, as well as items related to the history of creation (production), distribution, demonstration of the film - sketches, paintings and other works - scenery and costumes, technical devices (film cameras, etc.).

100. Please describe the type of deposit in Ukraine as: Legal Deposit, Compulsory Deposit of all funded films, Voluntary Deposit, Other (please specify).

All film projects financially supported by the Ukrainian State Film Agency must submit a set of source film materials and the resource kit for storage at the Oleksandr Dovzhenko National Centre - the largest Ukrainian film archive. In accordance with the contract for the production of the film, this set includes audio-, visual-, audiovisual products (film, video, photo, sound documents).

Film producers must deposit such free copies of audio-, visual-, and audiovisual products to:

- the state Film Fund which is managed by the central executive body in the sphere of cinematography (the Ukrainian State Film Agency), - film copies and source film or video materials fully or partially created with the financial support of the Government; film copies and source film or video materials created in Ukraine and funded by privately owned legal entities or individuals (except for documentaries, film periodicals, films - and video chronicles);
- Pshenychny Central State Cinema, Photo and Phono Archive of Ukraine, - film copies and source film or video materials of documentaries, periodicals, video cronicals, photographic documents, phonotapes fully or partially created with the financial support of the Government; film copies of documentaries, periodicals, video cronicals, photographic documents, phonotapes funded by privately owned legal entities or individuals;
- national all-Ukrainian libraries, including specialised ones, - reference, educational, scientific-educational, production, professional, and entertaining audio products;
- universal libraries of the Autonomous Republic of Crimea and regional state administrations;
- local lore audio products created in a certain area.

101. Is there any provision/practice in Ukraine concerning the collection of non-film material?

The Film Archive of the State Enterprise Oleksandr Dovzhenko National Center - is a department responsible for the preservation, research and distribution of non-film archives of Ukrainian films. The collection of the film archive of the Dovzhenko Center consists of paper and digital media documents united in seven funds, namely:

- personal records;
- internal official documents;
- shot lists;
- photographic information materials;
- movie posters;
- visual materials;
- print media.

In general, the Film Archive has more than 10 thousand storage units, including:

- unique personal archives of prominent personalities of Ukrainian cinema;
- rare photos from filming locations and films;
- collection of movie posters;
- various editions of film scripts;

- sketches of filmstrips and cartoons;
- documents on the work of film studios;
- Ukrainian film periodicals from the 1920s.

102. Please describe the databases used by the Film Heritage Institutions. Are they searchable via internet?

There is a film catalogue on the official website of the Ukrainian State Film Agency. It presents the most complete database of national films, information about film professionals and producers in Ukraine.

The directory contains information about films created not only during the period of Independence, but also in previous years, including - films of the All-Ukrainian Photographic Film Administration, Dovzhenko Film Studio, UkrAnimAfilm, Kyiv Studio of Popular Science Films, Ukrainian chronicle documentaries film studio and many others. Especially for the online directory, footage has been taken and captions of up to almost 20 percent of the films have been digitised. Movies in the catalogue can be filtered by year of production, director, producer, screenwriter, cameraman, actors and other characteristics.

The Film Fund of Dovzhenko Centre stores more than 60 thousand film products. All films are stored in separate vaults based on their nature, namely, in the storage of original materials (negative image, sound negative, internegative, and master print), storage of interpositives (release prints), storage of magnetic tape recordings, storage of films cleaned after fungus/mould infection, as well as the digital storage.

Most films are presented on source materials - negatives and countertypes, some also - on positive films and digital media. The Dovzhenko Centre keeps the source materials of all Ukrainian films made after 1992. Materials of Soviet-era films are mostly presented on duplicates or film positives.

There is a complete catalogue of films, posters and film documents of the Dovzhenko Centre on the official website. It is now available only in Ukrainian. Films from the Film Fund of Dovzhenko Centre are rented upon the permission letter from the Ukrainian State Film Agency and after filling in the application form.

Non-film archive of Ukrainian movies is not available online yet.

103. What measures/programmes have been taken in order to ensure preservation of deposited cinematographic works?

According to Article 7 paragraph 8 of the Law of Ukraine “On State Support of Cinematography in Ukraine”, state support of cinematography shall be provided to pay for the measures to preserve, renew, restore and promote national cinematic heritage, its return to Ukraine, if it is located abroad, as well as to pay for the production of archival sets of national films source materials that meet modern technological requirements for long-term conservation storage of an

archival set of source materials, reference materials and film copies of all national films in the State film fund of Ukraine.

104. What steps have been taken to promote professional training in all fields related to film heritage?

Amendments to the Classification of Occupations are currently being prepared for publication in line with international best practice. Next step is to review the training programs in order to update educational content majoring in Audiovisual Arts and Production.

105. Is there a strategy for the national film heritage and annual plans for specific issues (digitisation, restoration, education etc.)?

Legislative preparations are currently under way to establish a single film fund to preserve the national film heritage.

A strategy that will strengthen the development of cinematography, in particular the development and preservation of cinematic heritage is being developed. Due to consolidation of the single central executive body, whose activities are directed and coordinated by the Cabinet of Ministers of Ukraine and which ensures the formation and implementation of state policy in the field of cinematography, there is a release of resources that were used to ensure coordination with the Ukrainian State Film Agency. These resources will be involved in ensuring the formation of state policy in the field of cinematography, in particular in the preparation of draft legislation that will form the basis of legal framework in the field of cinematography.

In the near future, for the cultural and educational potential of the national cinematographic heritage, it is planned to create digital collections of archival film documents, which are accessible via the Internet. This is one of the ways to preserve historical memory, which will give an opportunity for publicising and disseminating film heritage in order to make it accessible to a wider audience, but necessarily respecting the Law of Ukraine “On Copyright and Related Rights”.

At the same time, the handover of state-owned enterprises to the management of the Ukrainian State Film Agency will provide an opportunity to accelerate management decisions on the implementation of state policy in the field of cinematography.

E. Protection of minors

106. Is there a national strategy dedicated to online protection of minors? What are the competent authorities in the field?

The Ministry of Digital Transformation of Ukraine has developed a Concept for Ensuring the Rights of Children in Cyberspace and a Plan of Action for its implementation, which are currently being agreed on and approved by the Government. The Concept and Plan have the following strategic objectives:

- Improvement of the national legislation in the field of crimes and cybercrimes against children;

- Increasing the ability of the police and the judiciary to address cyber crimes against children;
- Prevention of recurrence of crimes of a sexual nature against children in the digital environment;
- Ensuring the safety of children while accessing the Internet in educational process as well as in daily life;
- Introducing the system of assistance for children affected by cybercrimes, children who have witnessed cybercrimes, and their parents or caregivers;
- Increasing awareness of the illegality of accessing and storing of child sexual abuse materials (CSAM) as well as of available mechanisms and tools for protection in the digital environment.

The development of the Concept took into account the recommendations of leading international organisations, the OSCE, the Global Partnership to End Violence Against Children (EVAC), the WePROTECT Global Alliance, and the United Nations International Telecommunication Union. Whilst developing the National Strategy, the Ministry took into consideration the Recommendation CM/Rec (2018) 7 of the Committee of Ministers to member States on guidelines to respect, protect and fulfil the rights of the child in the digital environment.

Realisation of the Concept to be carried out within the powers of the Ministry of Digital Transformation of Ukraine and other central executive bodies. Also, the Deputy Minister of Ukraine - the Minister of Digital Transformation of Ukraine Mykhail Fedorov has been assigned by the Cabinet of Minister of Ukraine as a Co-ordinator for combating child sexual exploitation and abuse on the Internet.

107. Is there a recognition of the rights of the child in digital dimension? What measures are put in place to ensure that right are respected online as offline?

The state of Ukraine upholds the view that rights of the child shall be protected both offline and online to the same extent and without any difference in the scope of the rights guaranteed. This approach has been reflected in the above-mentioned Concept for Ensuring the Rights of Children in Cyberspace, development of which may be considered as one of the measures that have been put in place.

Another measure undertaken by Ukraine is development of an online safety platform. The platform is being developed by the Ministry of Digital Transformation of Ukraine with the support of the EU Advisory Mission to Ukraine. The platform will provide training materials on self-protection from online threats, as well as mechanisms for filing complaints in case of violations.

There are also mechanisms and tools in place to protect children in the digital environment, such as chatbots for the most popular messaging programs that promote the overall protection of children both at national and local levels.

Significant progress has been made at the level of legislation: the Parliament of Ukraine has adopted the Law of Ukraine ‘On amendments to certain legislative acts of Ukraine concerning the implementation of the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Convention)’ №1256-IX on February 18, 2021. According to the Law of Ukraine №1256-IX, the Criminal Code of Ukraine was updated with the definition of the type of content categorized as illegal - child pornography. Note 2 to Article 156-1 ‘Harassment

of a child for sexual purposes’ establishes that under Article 156-1 and Article 301-1 hereof, child pornography shall mean depicting in any way a child or a person who looks like a child, in a real or simulated sexually explicit image or involved in real or simulated sexual behaviour, or any image of the child's genitals for sexual purposes (Official translation of the Criminal Code of Ukraine into English is available using the link: <https://zakon.rada.gov.ua/laws/show/en/2341-14#Text>). The same definition of child pornography was added in paragraph 4 part 1 of Article 1 of the Law of Ukraine ‘On the protection of public morality’ №1296-IV on November 20, 2003.

108. Are there any legal requirements, which apply specifically to ISPs and how they should deal with illegal or harmful content accessed online? What type of content is categorised as illegal? Is there a definition of harmful content or guidelines on what constitutes harmful content?

Law of Ukraine ‘On Electronic Communications’ № 1089-IX, which came into force January 1, 2022, in paragraph 13 part 3 of Article 18 requires operators and providers to limit their subscribers’ access to resources through which the distribution of child pornography is carried out by a court decision. The same condition is set out in paragraph 8 of Article 39 in the Rules of provision and receipt of electronic communications services, adopted on April 11, 2012 by The Cabinet of Ministers of Ukraine.

According to paragraph 2, part 4 of Article 9 of the Law of Ukraine ‘On Electronic Commerce (E-Commerce)’ № 675-VIII, which came into force September 30, 2015, the intermediary service provider in the information sphere that provides services for intermediate (temporary) storage of information provided by the service recipient, when data on the use of information are obtained the provider shall resort to immediate actions to prevent access to the stored information after it becomes aware that the information in the primary source of transmission has been removed from the network or becomes inaccessible, or there is a court decision regarding its removal or inaccessibility. Paragraph 3, part 4 of Article 9 provides that the intermediary service provider in the information sphere that provides services for permanent storage of information at the request of the hosting service recipient, shall not be liable for the content of the transmitted or received information stored at the request of the service recipient and for damage caused as a result of such services, provided that the provider does not know about illegal activities or facts, or circumstances that the activity has signs of illegal one, or in relation to demands for compensation for losses resulting from such illegal activity, and the provider, upon receipt of such information, shall resort to immediate actions to prevent or terminate access to the information, including in accordance with the legislation on copyright and related rights (Official translation of the Law of Ukraine ‘On Electronic Commerce (E-Commerce)’ into English is available using the link: <https://zakon.rada.gov.ua/laws/show/en/675-19#Text>).

The Verkhovna Rada of Ukraine ratified the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse on October 25, 2007 (Law of Ukraine N 4988-VI June 20, 2012) the main purpose of which is to prevent and combat sexual exploitation of children, in particular child pornography and prostitution, and all forms of sexual abuse of children. Article 4 of the Convention provides that Each Party shall take the necessary legislative or other measures to prevent all forms of sexual exploitation and sexual abuse of children and to protect children.

In order to fulfil its obligations, Ukraine has adopted the Law of Ukraine ‘On amendments to certain legislative acts of Ukraine concerning the implementation of the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Convention)’ №1256-IX on February 18, 2021. According to the Law of Ukraine №1256-IX, the Criminal Code of Ukraine was updated with the definition of the type of content categorized as illegal - child pornography. Note 2 to Article 156-1 ‘Harassment of a child for sexual purposes’ establishes that under Article 156-1 and Article 301-1 hereof, child pornography shall mean depicting in any way a child or a person who looks like a child, in a real or simulated sexually explicit image or involved in real or simulated sexual behaviour, or any image of the child's genitals for sexual purposes (Official translation of the Criminal Code of Ukraine into English is available using the link: <https://zakon.rada.gov.ua/laws/show/en/2341-14#Text>). The same definition of child pornography was added in paragraph 4 part 1 of Article 1 of the Law of Ukraine ‘On the protection of public morality’ №1296-IV on November 20, 2003.

109. Are there any specific requirements for ISPs to inform the law enforcement about illegal content identified online?

There are no specific requirements for ISPs to inform the law enforcement about illegal content identified online.

The Ministry of Digital Transformation of Ukraine has started consultations and involved experts (legal analysis) on implementation of the future EU Digital Services Act (DSA) in order that relevant provisions of the DSA can be implemented within a short period of time once the DSA comes into force in the EU. During the consultation phase due consideration has been given to Article 21 (Notification of suspicions of criminal offences) of the DSA Proposal. As stated in the answer to question 51 and 53 above, the next step for the Government of Ukraine after preparing the legal analysis of the compliance of Ukrainian legislation with the Digital Services Act Proposal and pending finalisation of the latter according to the relevant procedure would be the development and adoption of a legal act that implements the provisions of the Digital Services Act. In this regard, the issue of introducing requirements for ISPs to inform the law enforcement about illegal content identified online will be decided during the process of the development and adoption of a legal act that implements the provisions of the Digital Services Act.

It is expected, however, that before the DSA comes into force, informing the law enforcement may be a voluntary commitment of ISPs. The Ministry of Digital Transformation of Ukraine is working on a White Paper on self-regulatory guidance for Internet service providers. This is expected to promote a proactive approach on the part of internet service and hosting providers.

110. Has a "hotline" for reporting harmful or illegal content been established? If so, please give details (including web and e-mail address) of the hotline(s), including their method of financing.

There is a portal for reporting Child Sexual Abuse Material (CSAM). The portal is operated within the Internet Watch Foundation ecosystem and has a dedicated Ukrainian page – <https://report.iwf.org.uk/ua>

The Ministry of Digital Transformation of Ukraine is developing an online safety platform with the support of the EU Advisory Mission to Ukraine. The platform will consist of two modules. The first module includes prevention steps and education materials for the protection of children from harmful and/or illegal content. The second module includes ways of response and harm reduction, such as establishing a national hotline for reporting and removing harmful and/or illegal content.

In January 2022, The Ministry of Digital Transformation of Ukraine managed to hold consultations with the UN-founded organisation 'End Violence Against Children' (EVAC), discussing the world practice of building such hotlines. In addition to these consultations, The Ministry of Digital Transformation of Ukraine was in touch with INHOPE, specifically with their Global Partnerships and Expansion Team, and planned further meetings for March 2022. The platform was supposed to be launched in April 2022.

111. Has an association of Internet Service Providers (ISPs) been established in Ukraine? Has a code of conduct / code of practice been drawn up by the ISPs?

In November 2000, the Ukrainian association of Internet Service Providers was established - The Ukrainian Internet Association (UIA). The main aim of UIA is to consolidate the efforts of all stakeholders in the development of the Internet in Ukraine. UIA unites 181 full members and 53 associate members, including Ukrainian internet service providers from different regions. In close coordination with the committees of the Verkhovna Rada of Ukraine (the Parliament) and other Ukrainian and international public organisations, the UIA constantly carries out expert-analytical work on the analysis, development, and adjustment of the legislative and regulatory framework of Ukraine.

On April 7, 2017, Ukrainian Internet Association adopted the Charter of UIA, which contains the main subject of the Ukrainian Internet Association's activity - the development, implementation, and monitoring of the realisation by the Members of the Association of recommendations on the rules and standards of practice in the Internet access services market.

112. Have any efforts been made, either by industry or public authorities, to develop a filtering and rating system online in Ukraine? What is the approach towards user-generated content?

The working group on the creation of rules for the protection of children in the media, which operates under the National Council of Television and Radio Broadcasting of Ukraine, developed and approved joint acts of agreement aimed at establishing rules that can guide the media in their activities, covering sensitive topics that may adversely affect the psychological and moral development of children. In December 2015, a round table was organised to discuss topical issues.

Then the regulator launched an appropriate dialogue with the industry and the next year, in 2016, a special working group was created to address these topics. Since the creation the working group has included representatives of various media groups (StarLightMedia, Media Group Ukraine, 1+1 media, National Public Broadcasting Company of Ukraine, Independent Association of Broadcasters on behalf of regional and local broadcasters), productions, psychologists, scientists, media experts, employees of the National Council. Thus, the working group on the creation of rules for the protection of children in the media developed and approved:

- Joint act of agreement No. 1. Protection of a child, who has been sexually abused, when being involved in media production;
- Joint act of agreement No. 2. Media coverage of suicide;
- Joint act of agreement No. 3. Media coverage of the topic of children's participation in armed conflicts;
- Joint act of agreement No. 4. Media coverage of cases of violence and cruelty;
- Joint act of agreement No. 5. Media coverage of cases of bullying.

The provisions of these Joint acts of agreement allow the media to talk about sensitive topics in a way that makes it impossible for children to be further impaired.

All acts are open for signature and use in work of other media, as well as online publications.

Broadcasters voluntarily undertake to comply with the provisions of these acts, the National Council does not apply sanctions for their non-compliance, but conducts a dialogue with broadcasters in order to encourage them to comply with joint acts of agreement.

Ukraine has been working for a long time to update the legislation in the area of media.

The draft Law "On Media", which should replace the outdated legislation in the area of television and radio broadcasting, provides for the creation of a co-regulatory media body, the competence of which is to include the issue of determining the criteria for content that could harm children. So, this joint work of the National Council and industry will continue.

As to the user-generated content, it is the Government's approach to rely on educational and proactive measures rather than on restrictive ones. With this in mind, no prohibitions on user-generated content including sexting and similar issues, have been introduced so far. There are industry- and NGO-driven initiatives such as #Stop_sextинг Project that address the issue of harmful self-generated content. Also, the above-mentioned online-safety platform, which is going to be launched in the nearest future, is expected to contribute significantly to the fight against harmful user-generated content: the platform will provide its users with educational content raising their awareness of the consequences that sharing of self-generated content can bear.

113. What measures have been taken to spread awareness of safer internet issues at local and national level? How users in the situation of vulnerability are reached (e.g. children with disabilities, migrant children, refugees)?

The above-mentioned Concept for Ensuring the Rights of Children in Cyberspace and a Plan of Action for its implementation, which are currently being agreed on and approved by the Government, include the following strategic objective: Increasing awareness of the illegality of accessing and storing of child sexual abuse materials (CSAM) as well as of available mechanisms and tools for protection in the digital environment. This strategic objective consists of operational tasks such as: conducting information campaigns, raising awareness, publishing recommendations etc.

It should be mentioned, however, that regardless of the Concept's adoption, measures of similar nature have been undertaken in the last years on a regular basis: holding online-safety schools,

conducting information campaigns on certain online-threats, celebrating and raising awareness about Safer Internet Day etc.

There are also above-mentioned mechanisms and tools such as chatbots for the most popular messaging programs that contribute to spreading awareness of safer internet issues both at local and national levels.

The users in the situation of vulnerability are reached by the online nature of the measures being undertaken and amplified by the efforts of the Ministry of Digital Transformation of Ukraine on providing access to the Internet to every possible settlement in the country.

114. Please describe measures, which have been taken in order to improve digital skills and media-literacy (e.g. teaching children how to make a responsible use of new media). How dis and misinformation is tackled?

Media literacy as one of the achievements of the learner is defined by the "Concept of implementation of media education in Ukraine", which is actively implemented in the educational system. Ukraine is implementing the tasks of the third stage of development of media education and ensuring its mass implementation within the period (2021-2025).

The key guidelines for the implementation of media education in Ukraine which are identified in the document include:

integration of media education elements into curricula in various subjects and development of separate optional courses for students;

formation of media literacy and media culture in the system of out-of-school education, in particular in group, studio work, work of the Academy of Sciences;

formation of media information culture of teachers in the system of higher and postgraduate pedagogical education;

modernization of school libraries as modern computerised centres, where information and research activities of students are concentrated;

parental media education, etc.

These key principles are reflected primarily in the state standards of primary and basic secondary education of the New Ukrainian School. The components of media literacy are transversal, they are presented in all areas of education, and in some they are presented as separate learning outcomes.

In particular, the State Standard of Primary Education provides for the formation of skills to distinguish, analyse, interpret, critically evaluate information in media texts and use it to enrich their experience; the ability to create media texts and interact with others in real time.

The State Standard of basic secondary education also contains significant media educational potential in describing the requirements for compulsory learning outcomes and student competencies.

Activation of the media educational potential of state standards and integration of the best media educational practices into the educational process is directly related to the creation of educational and methodological literature of a new format. Most of the textbooks and manuals for students of the New

Ukrainian School contain a system of educational tasks aimed at developing skills that are part of media literacy, and their application in the implementation of practice-oriented tasks.

Ukraine launched regional experiments on the introduction of media literacy education in 2011.

Information and digital competence is one of ten key competences in the framework of educational reform. Information and digital competence involves the confident and, at the same time, critical use of information and communication technologies for creation, retrieval, processing, and information exchange at work, in public space, private communication and more.

The State Standard of Basic Secondary Education provides students with the ability to: communicate orally and in writing based on informational and literary texts, media texts; obtain and process information from various (print and digital, including audiovisual) sources in various educational fields and contexts, critically comprehend it and use it for oral and written communication, to defend their views, beliefs, social and national values; distinguish between facts, their interpretations, recognize attempts to manipulate data, using a variety of resources and methods to assess the quality of evidence, reliability of sources and reliability of information.

As of today, media education and media literacy are taught both as separate courses (“Fundamentals of Media Literacy”, “Steps to Media Literacy”, “Media Culture”, “Media Education”) and integrated ones. Currently, media literacy is a part of the courses “Civic Education” for 10th grade students, “Culture of Good Neighborliness” – for 1-5 grades’ students. Media literacy in schools is also integrated into out-of-school (after school club) work – meaning running a school media, for example.

Also, since 2011, the Ministry of Education and Science of Ukraine in partnership with the Academy of Ukrainian Press has been implementing media literacy education. This includes formation and support of a group of leading media literacy educators for primary, secondary, and higher education; educational publications for different audiences; introducing the best global practices in implementing media literacy education. Since 2011, teachers of postgraduate pedagogical education institutions have been constantly trained. Since 2012, the Media Education and Media Literacy portal has been operating in Ukraine. In 2021, a national project for media literacy “Filtr” started to operate. It is run by the Ministry of Culture and Information Policy of Ukraine.

115. Do media service providers provide sufficient information about content that may impair minors' physical, mental or moral development? Are on-screen warning icons, acoustic warnings or visual symbols required, either by law or by codes of conduct, for potentially harmful television programmes?

Talking about protecting children from harmful content, the main document is the European Convention on Transfrontier Television ratified by Ukraine and the Law of Ukraine on Television and

Radio

Broadcasting.

The European Convention on Transfrontier Television, ratified by Ukraine in 2008, provides for the protection of children and adolescents from negative television content. Article 7, paragraph 2, of this Convention provides that all video programmes that may be harmful to the physical, mental or moral development of children and young people shall not be broadcast if they are likely to be viewed during the broadcast and reception.

A legal framework already exists in Ukraine to protect children from harmful content. Thus, article 20, paragraph 4, of the Ukrainian Child Protection Act prohibits the promotion in the media of the cult of violence and cruelty, the dissemination of pornography and information despicable to human dignity and damaging to the moral well-being of children.

Under article 13 of the Public Morality Protection Act, television, video and radio programmes containing erotic elements may be broadcast between 1 a.m and 4 a.m, unless a different reduction in broadcasting time is prescribed by the local authorities. Before broadcasting a television or radio programme of a sexual or erotic nature there must be an audio or text message announcing the nature of the programme and prohibiting minors from watching or listening to it.

Under article 6, paragraph 2, of the Television and Radio Broadcasting Act, television and radio broadcasts may not be used, particularly for broadcasting programmes or video sequences which may be harmful to the physical, mental or moral development of children and young people if they are able to watch them.

Article 62 of the Act is entirely devoted to the protection of public morals and the rights of minors and adolescents. When producing, producing and disseminating television and radio programmes and broadcasts, radio and television service providers must comply with the legal requirements for the protection of public morals.

Television and radio organisations are prohibited from disseminating or announcing programmes or broadcasts that might harm the physical, intellectual or spiritual development of minors and young people, except during prime-time hours between 11 p.m. and 6 a.m. and on channels with limited access.

Such programmes or broadcasts must have a special warning and be accordingly reflected in the programme schedule of the television and radio organisations and be specially announced immediately before their broadcast. At the same time, in their programmes and broadcasts, television and radio organizations may not, without the written consent of the parents or persons acting in their stead or the law enforcement authorities concerned, divulge any information that: may contribute to the identification of a juvenile delinquent; concerns the fact that a juvenile has committed suicide.

In its programmes and broadcasts television and radio organizations may not, without the written consent of the parents or persons acting in their stead or the law enforcement agencies concerned, disclose any information which may help to identify a juvenile offender or relate to a juvenile's suicide.

In addition, Ukraine has introduced a state film distribution certificate, which regulates the distribution and exhibition of all types of domestic and foreign films in Ukraine.

Pursuant to Regulation №1315 of the Cabinet of Ministers of Ukraine dated 17 August 1998 (as amended), On Approval of the Regulations on State Certification of the Right to Distribute and Demonstrate Films, each film is supplied with one of these indices, which specify its audience and the conditions of its distribution and exhibition:

The indices of films with no audience restriction:

"ДA" - children's audience;

"3A" - general audience;

indices of films that have a viewership restriction:

"14" - a film whose viewing is permitted to children under 14 years of age only when accompanied by a parent. Children under the age of 14 are not permitted to view the film on their own;

"16" - a film which may not be viewed by anyone under 16 years of age;

"18" - a film which may not be viewed by anyone under 18 years of age;

"X21" - a film whose viewing is prohibited to persons under 21 years of age;

The index of the film is noted on the distribution certificate.

Officials of cinematographic or video and television establishments shall be liable in accordance with the law for distribution and showing of the film without a distribution certificate or violation of the conditions of distribution and showing specified in the distribution certificate.

In order to implement the provisions of this Regulation, by the Decision of the National Council of Television and Radio Broadcasting of Ukraine of 08 February 2012 No. 117 (as amended by the Decision of the National Council of Television and Radio Broadcasting of Ukraine of 10 March 2016 No. 306), the System of visual marks with the index of film production depending on the audience for which it is intended was approved.

In accordance with paragraph 6 of this System, TV and radio organisations are prohibited from distributing and announcing programmes that may harm the physical, intellectual and spiritual development of minors and youth, except during airtime in the daily period between 11 p.m. and 6 a.m and on channels with limited access.

These measures cannot be considered effective enough, since they actually apply exclusively to films and do not apply to programmes. Sufficient sanctions (except for "warning announcement") for violation of existing requirements have also been postponed.

The effectiveness of the use of marks – warnings for potentially harmful television programmes will ensure that the current legislation provides for the powers of the regulator (National Council) to develop and establish requirements for appropriate marks, an effective mechanism for supervision and control over their implementation and appropriate sanctions for violation of such requirements.

116. Are there any specific legal provisions concerning loot boxes and online gaming? Are there any measures to ensure that minors are not exposed to online gambling?

Currently, there aren't any specific legal provisions concerning loot boxes and online gaming.

During e-sports competitions organised by the National E-Sports Federation of Ukraine, age restrictions are regulated in accordance with the age recommendations of e-sports providers and in accordance with the Rules of e-sports competitions approved by the Ministry of Youth and Sports of Ukraine of 25 October 2021 No 33/5.3/21. In the case of minor players, the permission of the parent or official guardian of the participant is required.

State regulation in the field of organisation and conduct of gambling is carried out by the Verkhovna Rada of Ukraine, the Cabinet of Ministers of Ukraine, the Commission on Regulation of

Gambling and Lotteries and other public authorities within their powers under the Constitution and laws of Ukraine.

On 13 August 2020, the Law of Ukraine "On State Regulation of Activities Concerning the Organization and Conduct of Gambling" № 768-IX of 14 July 2020, entered into force, which establishes in Article 18 that a player can be only a natural person, which on the date of participation in the game has filled 21 years. Organisers of gambling games are prohibited to accept bets and pay (give) wins (prizes) in a gambling game to persons younger than 21 years old. Part 2 of Article 19 of the Law of Ukraine "On State Regulation of Activities Concerning the Organization and Conduct of Gambling" provides that employees of the organiser of gambling games and other persons involved in rendering services to organisers of gambling games, cannot be persons who at the moment of the beginning of work have not reached 21-year age.

In accordance with the provisions of Article 17 of the Law of Ukraine "On State Regulation of Activities Concerning the Organization and Conduct of Gambling" the organiser of gambling games is obliged to introduce procedures (policy), which allow identifying (verifying, establishing data) the age of the player. Parts 4 and 5 of Article 17 state that identification (verification, data establishment) of a player on the Internet is carried out by the organiser of gambling games using an electronic signature, sim-card with support of MobileID, BankID, or other verification methods used in accordance with the law and the organiser of gambling games has the right to request additional documents from the gambler in order to identify (verify, establish data) the player on the Internet in accordance with the rules of the organiser of gambling games, including the player's own image with the required document, or require video communication.

According to part 8 of Article 17, the organiser of gambling games during identification (verification, data establishment) of the player using an electronic signature, sim-card with MobileID, BankID, or other verification methods must comply with the legislation on personal data protection.

Law of Ukraine "On State Regulation of Activities Concerning the Organization and Conduct of Gambling" establishes that information materials on gambling addiction and responsible game, in particular on age limits, chances to win, principles of the responsible game, places where you can get help in case of gambling addiction, are available in places of activity in the field of organisation and conducting of gambling games in free access for players and visitors, published in the state language and translated into English. Organisers of gambling games are obliged to provide players with information about the activity of organisations, medical institutions and/or medical workers, who treat gambling addiction. This information (contact details, support service phone number) should be available on the websites in case of activities in the field of organisation and conduct of gambling on the Internet.

The Commission for Regulation of Gambling and Lotteries is a central executive body with a special status that provides state regulation of activities in the field of organisation and conduct of gambling and lotteries, whose activities are directed and coordinated by the Cabinet of Ministers of Ukraine. The Procedure on direction and fulfilment of requirements regarding the restriction of access to the website on (from) the territory of Ukraine or parts thereof was approved by the decision of the Commission.

117. Is there any self-regulatory system in place, which covers questions relating to age-rating for video games, such as the system of self-rating which has been announced by the Interactive Software Federation of Europe (ISFE)? If so, please give details.

Currently, Ukraine hasn't a national self-regulatory system in place, which covers questions relating to age-rating for video games.

As for video production in Ukraine, there is a System of visual markings with an index of film and video production depending on the audience for which it is intended, approved by the Decision of the National Council of Television and Radio Broadcasting of Ukraine № 117 of 08 February 2012.

According to the Decision of the National Expert Commission of Ukraine for the Protection of Public Morality №1 "On compliance with legislation in the field of protection of public morality in the circulation of computer games" of 09 April 2013 and UNICEF Recommendations for the Online Gaming Industry on Assessing Impact on Children, Ukrainian game publishers voluntarily and in consultation use such systems as PEGI (The Pan-European Game Information) and ESRB (Entertainment Software Rating Board), etc.

In case of distribution of video games of foreign production on the territory of Ukraine, marked according to the age rating of the PEGI system, the marking is kept to inform users and their parents (legal representatives) and the general public. PEGI (The Pan-European Game Information) age rating system was established to help European parents make informed decisions on buying computer games. It was launched in the spring of 2003 and replaced a number of national age rating systems with a single system now used throughout most of Europe.

During e-sports competitions organised by the National E-Sports Federation of Ukraine, age restrictions are regulated in accordance with the age recommendations of e-sports providers and in accordance with the rules of e-sports competitions approved by the Ministry of Youth and Sports of Ukraine. In the case of minor players, the permission of the parent or official guardian of the participant is required.

118. What is the age of digital consent for the processing of children's data by information society services?

There are no special rules on the age of children to consent to the processing of personal data. According to Article 242 of the Civil Code of Ukraine, parents (adoptive parents) are the legal representatives of their minor children. Legal representatives give such consent. According to Article 34 of the Civil Code of Ukraine, a natural person who has reached eighteen years (full age) has full civil capacity. However, full civil capacity may be granted to an individual who has reached sixteen years and works under an employment contract, as well as to a minor who is registered as the mother or father of a child (Article 35 of the Civil Code of Ukraine).

119. Are there any specific legal provisions concerning processing of personal data of minors collected by media service providers? How is commercial communication targeted at children tackled?

According to Article 242 of the Civil Code of Ukraine, parents (adoptive parents) are the legal representatives of their minor children. Article 10 of the Law of Ukraine "On Child Protection" states

that the disclosure or publication of any information about a child that may harm him or her without the consent of the child's legal representative is prohibited.

120. Have any efforts been made, either by industry or public authorities, to establish an age verification system for users of online services?

The establishment of an age verification system and/or shaping of a state's policy on this issue has been addressed while conducting research for the elaboration of guidelines on protection of personal data of children that are being prepared by the Ministry of Digital Transformation of Ukraine. The findings of the research echo those of the British ICO described in its GDPR Guide: we envisage that verification will become easier over time as the technology becomes available. We consider the current level of development and availability of age verification solutions to be not enough to establish such a system, nor to shape a state's policy with age verification requirements for the industry. Currently available solutions are either easy to circumvent or too burdensome both for the industry and other stakeholders (for example, parents or caregivers). Still, we continue to monitor developments in this field and will be ready to implement a system or to shape a policy once a well-recognised approach to the problem appears.

121. Is there any research conducted in the field on child online protection? How are priorities at national level defined

A nationwide survey entitled "Internet Security: April 2021" supported by the EU Advisory Mission to Ukraine was conducted by the Kyiv International Institute of Sociology from March 3 to April 15, 2021. The survey has been conducted using the method of computer-assisted telephone interviews (computer-assisted telephone interviews, CATI) based on a random selection of mobile telephone numbers of 2002 internet user aged 15 y.o. and older and 409 internet users aged 12-14 y.o. living in all regions of Ukraine (except the Autonomous Republic of Crimea).

The survey has covered a wide range of issues:

1. General practice of Internet usage:

1.1 Frequency of Internet usage and devices used to access Internet;

1.2 Main social networks, messengers, and communication services;

3.3 Sense of security on the Internet;

3.4 Trust to the electronic form of interaction with the governmental authorities.

2. Experience of cyberbullying / image-based abuse / defamation:

2.1 Respondents' experience of the situations on the Internet that embarrassed / upset the respondent;

2.2 Respondents' experience of the situations with cyberbullying / image-based abuse / defamation;

2.3 Cyberbullying: experience and views details;

2.4 Defamation: experience details;

- 2.5 Image-based abuse: experience details.
- 2.6 Communicating with unknown people and meeting them by respondents 12-14 y.o.
- 3. Experience of online-scams:
 - 3.1 Respondents' experience of the online-scam situations;
 - 3.2 Respondents' experience of the specific situations that could be connected with online-scams;
 - 3.3 Respondents' experience with hacking personal account in the social networks / messengers.
- 4. Security of personal information.
 - 4.1 Concerns about the amount of personal information collected on the Internet and cases of personal information leakages
 - 4.2 Top-threats to the personal information and trust in a matter of its protection
- 5. Malware.
- 6. Hate speech and terrorist content on the Internet:
 - 6.1 Respondents' experience of the situations on the Internet with the hate speech and terrorist content;
 - 6.2 Hate speech: experience and views details;
 - 6.3 Terrorist content: details.
- 7. Fakes and Disinformation:
 - 7.1 Prevalence of the fakes and disinformation on the Internet and the responsibility for combating them;
 - 7.2 Self-assessment of the ability to distinguish quality information from fakes and disinformation.
- 8. Addiction to Technologies:
 - 8.1 How many hours spend on the Internet during weekdays and weekends;
 - 8.2 Addiction to technologies: experience of specific situations;
 - 8.3 Addiction to technologies: number of situations and index.
- 9. Children on the Internet and parental monitoring: opinions and views of parents:
 - 9.1 Responsibility for the safety of children on the Internet;
 - 9.2 Personal information about children less than 12 y.o. in the social networks / messengers and privacy settings;
 - 9.3 Internet usage by the children less than 12 y.o.;
 - 9.4 Parental monitoring of the online-activity of children less than 12 y.o.
- 10. Children on the Internet and parental monitoring: opinions and views of children aged 12-14:

10.1 Asking for help in case something incomprehensible or unpleasant on the Internet;

10.2 Parental monitoring of the online-activity of children and attitudes towards it.

The findings of the survey have been taken into account while shaping the policy of the Government in the field of child online protection. The Survey Report is available here: [Eng_Report_ESafety_Apr2021_eng.docx](#)

CHAPTER 11. AGRICULTURE AND RURAL DEVELOPMENT

INTRODUCTION

The agricultural sector is an important part of Ukraine's economy, estimated at about 16% of GDP, forming 41% of the commodity sector and employing 17% of all workers.

In recent years, Ukraine's role as a global food supplier has grown significantly. Increasingly integrating into the world economy, Ukraine is now one of the world's leading food producers and is constantly increasing exports of food and agricultural raw materials.

Ukraine is a guarantor of food security in many countries around the world and significantly contributes to the food security of its partners in Europe, the Middle East, Southeast Asia and North Africa.

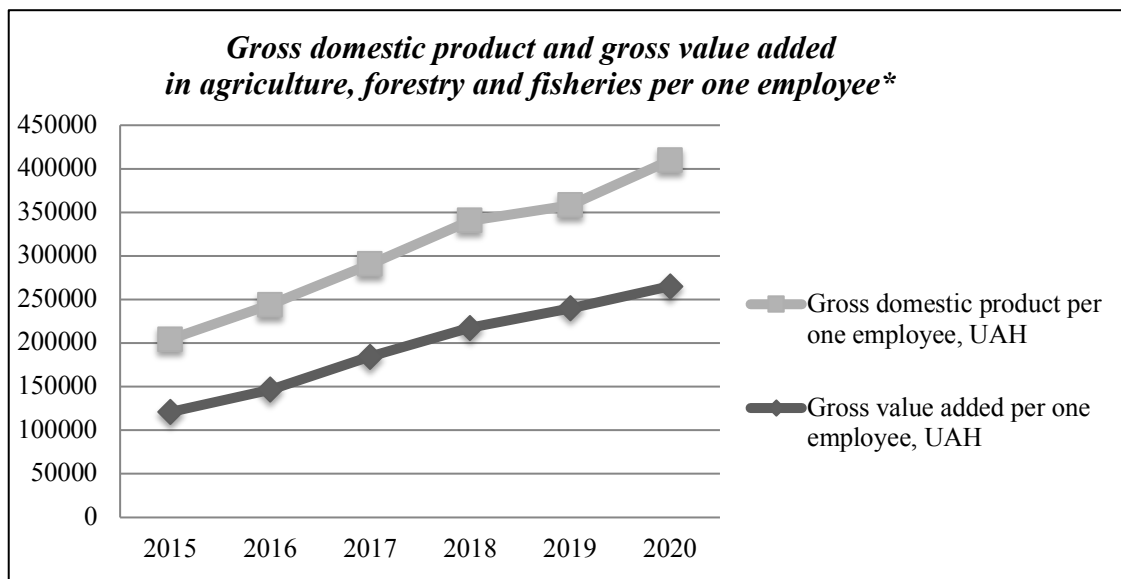
The area of agricultural land in Ukraine is 41.3 million hectares. They include arable land, fallow land, perennials, hayfields, and pastures.

The number of people employed in agriculture, forestry and fisheries as of the beginning of 2021 were 2.7 million people aged 15 to 70 years, which is 17.1% of the total number of employed.²⁶ Taking into account the trend of the last 5 years, this figure is gradually decreasing.

In 2021, Ukraine managed to obtain the highest yields since independence, exceeding 100 million tons.

Ukraine provides its own food needs and is a net exporter of certain agricultural products and food products – cereals, oilseeds, sunflower oil and processed products, poultry, etc.

According to the official data of the State Customs Service of Ukraine, the foreign trade turnover of agricultural products and foodstuffs in 2021 increased by 23.5% compared to the corresponding period of 2020 and reached about Euro 33 billion (UAH 1 trillion).



²⁶ Excluding temporarily occupied territories of the Autonomous Republic of Crimea and city of Sevastopol; the age category includes the employed citizens, self-employed, employed by the individuals or at own (family) enterprise; citizens, who worked for free at an enterprise, in business belonging to one of the household members, or at private subsidiary farm with the aim of selling produce of such activities.

I. HORIZONTAL

1. Please provide a general description of:

a) The current agriculture and rural development policy in your country. Do you have a (multiannual) strategy for the agriculture and rural development sector?

In recent years, a number of reforms have taken place in the agricultural sector (in 2021 the work of the Ministry of Agrarian Policy and Food of Ukraine as a separate body was renewed after it was made a part of the Ministry of Economy of Ukraine in 2019).

The land reform is one of the most significant. The agricultural land market has been opened, state-owned land has been transferred to local communities, new tools have been introduced to support farmers, insurance and loan guarantee mechanisms have been expanded.

Since 01 July 2021 the market circulation of agricultural lands was introduced. Currently the first stage of land market operation is in operation – until 01 January 2024 the key players at the land market will be natural persons (citizens of Ukraine), which will be able to freely manage and get ownership of a land plot of up to 100 ha.

Along with the land reform, the irrigation reform remains the priority for Ukraine. Ukraine is interested in revival of the cooperation in the implementation of the special infrastructure projects on reconstruction, construction and designing of the irrigation systems.

The Fund for Partial Credit Guarantee in Agriculture was created aimed at partial guarantee of the obligations under the credit agreements of the micro-enterprises, small and medium-sized businesses, natural persons-entrepreneurs involved in agriculture.

In addition, the Government of Ukraine has expanded state support for agricultural producers for 2021, adding six new programs. Among the new programs to support the agro-industrial complex:

- state support for insurance of agricultural products;
- compensation for losses from damage to agricultural crops due to man-made and natural emergencies;
- state support for agricultural producers using reclaimed land;
- state support for producers of organic agricultural products;
- state support for potato producers;
- state support for agricultural producers by allocating budget subsidies per unit of cultivated land (buckwheat).

One of the important directions of the current agricultural policy is ensuring the sufficient level of the food security of Ukraine, which directly depends of the state of the agriculture, food and processing industries. It should be mentioned that Ukraine produces enough food for ensuring healthy nutrition.

The results of the assessment of the state of food security indicate that the achieved level of development of own production of agricultural products, raw materials and food in 2020 allowed to

guarantee the physical availability of food products for the population with caloric value at the level of 2,674 kilocalories (in 2019 – 2,691 kilocalories) per person per day with an average daily caloric content of the diet in the EU countries in the range of 2,854 – 3,581 kilocalories.

The Ministry of Agrarian Policy and Food of Ukraine has also prepared in this area a draft decree of the Cabinet of Ministers of Ukraine “On Approval of the Food Security Strategy till 2030” (hereinafter referred to as the strategy), which is currently under consideration in the Cabinet of Ministers of Ukraine. The strategy will identify current challenges and threats to Ukraine's national security in the food sector. The priority national interests in the field of food security are to ensure access of all social and demographic groups of population to safe food products in sufficient quantities throughout the year, create conditions for food independence of the country, sustainable development of agriculture and reduce the level of morbidity of the population.

The efforts of the Government of Ukraine are also aimed at the comprehensive rural development, which envisages sustainable development of the agricultural production and entrepreneurship in the rural areas, improvement of the labour and living conditions of the population, environmental protection, revival and sustainable use of the natural resources.

Due to the decentralization processes, the villages in Ukraine received the authorities and sources of funding similar to those of the cities of oblast significance. Consequently, the rural territorial communities got an opportunity to develop and be financially independent in the same way as big cities. Before they were dependent, to a great extent, on the rayon level.

Among the most significant laws adopted recently and aimed at the reforming of the agrarian sector, the following can be mentioned:

1. Law of Ukraine No. 1423-IX “On Amendments to Certain Legislative Acts of Ukraine Concerning the Improvement of the Management System and Deregulation in the Field of Land Relations”;
2. Law of Ukraine No. 1444-IX “On Amendments to Certain Legislative Acts of Ukraine Concerning the Sale of Land Plots and Acquisition of Right to Use Them Through Electronic Auctions”;
3. Law of Ukraine No. 554-IX “On National Geospatial Data Infrastructure”;
4. Law of Ukraine No. 552-IX “On Amendments to Certain Legislative Acts of Ukraine Concerning the Conditions of Turnover of Agricultural Land”;
5. Law of Ukraine No. 1601-IX “On Amendments to Certain Laws of Ukraine on the Improvement of the Regulation of Insurance of Agricultural Products with State Support”.
6. Law of Ukraine No. 1865-IX “On Fund for Partial Credit Guarantee in Agriculture”.

Currently, there are strategic documents in force in the field of Agriculture and Rural Development:

The Concept of Rural Development approved by the Order of the Cabinet of Ministers of Ukraine No. 995-r dated 23.09.2015 and the action plan for its implementation for the period up to 2025, approved by the Order of the Cabinet of Ministers of Ukraine No. 489-r dated 19.07.2017.

The State Strategy of Regional Development for 2021-2027, approved by Resolution of the Cabinet of Ministers of Ukraine No. 695 dated 05.08.2020 and the action plan for its implementation for 2021-2023, approved by order of the Cabinet of Ministers of Ukraine No. 497-r dated 12.05.2021.

Key strategic areas of activity in the field of development of the agricultural sector and rural development are determined by the National Economic Strategy until 2030, approved by the Resolution of the Cabinet of Ministers of Ukraine No.179 dated 03.03.2021. Among the key beacons of economic policy are: European and Euro-Atlantic integration; decarbonization of the economy; effective digital service state; reintegration of temporary occupied territories; gender equality; national security through partnership and investment.

The Irrigation and Drainage Strategy in Ukraine until 2030 was approved by the Order of the Cabinet of Ministers of Ukraine dated 14 August 2019 No. 688-r.

The draft Decree of the Cabinet of Ministers of Ukraine “On approval of the Food Security Strategy till 2030” has been developed.

The following key strategic objectives in agrarian sector development can be mentioned:

- ensuring a stimulating and advisory agricultural policy;
- providing market players with high-quality infrastructure;
- creating conditions for manufacturers to provide affordable material and technical resources;
- balancing the production of high-and low-margin products to increase the profitability of the sector;
- promoting the development and full-scale provision of market for functioning of processing;
- optimization of the product sales ecosystem in the domestic and foreign markets;
- ensuring the production and export of safe and healthy agricultural and food products.

b) The administrative structure in place at the national and/or regional or local level (e.g. Ministry of Agriculture, Intervention/Paying Agencies, Advisory Bodies, Control Bodies, Audit authorities, etc.) involved in agricultural policy formulation, management/execution, monitoring, control and audit of the policy.

The Ministry of Agrarian Policy and Food of Ukraine is a specialised executive body that formulates and implements the state agricultural policy. Pursuant to the Regulation on the Ministry of Agrarian Policy and Food of Ukraine, approved by Resolution of the Cabinet of Ministers of Ukraine No. 124 dated 17 February 2021, the Ministry of Agrarian Policy and Food of Ukraine is a central executive body, the activities of which are guided and coordinated by the Cabinet of Ministers of Ukraine.

The Ministry of Agrarian Policy and Food of Ukraine is a key agency in the system of central executive bodies that ensures the formulation and implementation of the following:

- the state agrarian policy, the state policy for agriculture and food security, the protection of plant variety rights, animal husbandry, plant cultivation, rural development, horticulture, viticulture, winemaking, hop growing, food and processing industry, and the technical policy for the agro-industrial complex and machine building for the agro-industrial complex, rural development, farming development, agricultural cooperation, agricultural advisory activities, monitoring and soil fertility on agricultural lands, and seed and seedlings production;
- the state policy for fisheries and fishing industry, the protection, use, and reproduction of aquatic bioresources, the regulation of fishing and maritime safety of fishing fleet vessels, topographic, geodetic, and cartographic activities, land relations, land management, the state land cadastre, the state supervision (control) for the agro-industrial complex in terms of compliance with

the land legislation, the use and protection of land of all categories and forms of ownership and soil fertility;

- the state policy for the national geospatial data infrastructure;
- the state policy for supervision (control) in engineering and technical support and innovative development of the agro-industrial complex (only formulation);
- the state policy for land melioration and the operation of state multi-purpose water management facilities and inter-farm irrigation and drainage systems.

Pursuant to the amendments to some resolutions of the Cabinet of Ministers of Ukraine on the activities of the Ministry of Economy of Ukraine and the Ministry of Agrarian Policy and Food of Ukraine, approved by Resolution of the Cabinet of Ministers of Ukraine No. 115 dated 9 February 2022, the Ministry of Agrarian Policy and Food of Ukraine also ensures the following:

- the formulation and implementation of the state policy for organic production, and circulation and labelling of organic products;
- the formulation and implementation of the state policy for food safety and quality and plant quarantine and protection;
- the formulation and implementation of the state policy for veterinary medicine.

Staff Structure of the Ministry of Agrarian Policy and Food of Ukraine:

Minister
First Deputy Minister
Deputy Minister
Deputy Minister for Digital Development, Digital Transformation and Digitalization
State Secretary of the Ministry
Patronage Service of the Minister
Agrarian Development Department
Legal Support Department
Human Resources Department
Financial and Economic Department
Directorate of Agricultural Infrastructure
Agricultural Resources Regulation Directorate
Accounting and Business Support Directorate
Communication Policy and Organizational Support Directorate
International Policy Directorate

Digital Transformation Development Directorate
Division of Document Management and Control
Division of Ensuring the Activities of Deputy Ministers
Division for Work with Citizens' Appeals and Access to Public Information
Scientific and Educational Support and Innovations Sector
IT Support Sector
Internal Audit Sector
Sector for Ensuring the Activities of the Secretary of State
Information Security Sector
Chief Specialist for Prevention and Detection of Corruption
Chief Specialist for Mobilisation and Civil Protection

The State Service of Ukraine for Geodesy, Cartography and Cadastre and the State Agency for Melioration and Fisheries of Ukraine are subordinate to the Ministry of Agrarian Policy and Food of Ukraine. Their activities are guided and coordinated by the Minister for Agrarian Policy and Food of Ukraine.

The State Service of Ukraine for Geodesy, Cartography and Cadastre controls the use and protection of the lands of all categories and property forms, and soil fertility. The State Service of Ukraine for Geodesy, Cartography and Cadastre implements its authorities directly and through territorial bodies (established in line with the set procedure) – 24 territorial departments in each oblasts of Ukraine, and one department in Kyiv. Territorial bodies of the State Service of Ukraine for Geodesy, Cartography and Cadastre manage state agricultural lands, carry out state control of the lands use and protection and compliance with the land protection requirements.

The State Agency for Melioration and Fisheries of Ukraine, under the tasks assigned to it, ensures the state supervision (control) for the protection, use, and reproduction of aquatic bioresources, the compliance with fishing regulations and limits and established standards for the use of aquatic bioresources, as well as for the technical status of fish-protection structures.

The State Agency for Melioration and Fisheries of Ukraine implements its authorities directly and through the territorial bodies (fishery protection bodies) created in line with the established procedure – 24 territorial departments in each oblast of Ukraine, and 2 basin departments – Azov Fishery Protection Patrol and Black Sea Fishery Protection Patrol. Fishery protection bodies are the law enforcement bodies provided by the state with transport, inspection equipment, arms, video and photo equipment, working clothes for the implementation of their duties.

A Community Council operates at each state executive body. A Community Council is an advisory body that is formed – on an election basis – from representatives of civil society organisations operating in a relevant sector and meets established criteria.

Also, Oblast state administrations have relevant departments (Departments for Agro-Industrial Development) that are established by and report to the heads of oblast state administrations. The departments also report to and are regulated by the Ministry of Agrarian Policy and Food of Ukraine.

The key functions of such departments include:

- Analysis of the state and trends of the economic and social development of the agrarian sector in oblast, involvement in setting the priorities of such development;
- Preparation of the suggestions for the draft programs and forecasts of economic and social development and relevant target program of sectoral development of agro-industrial production;
- Submitting to the line Ministry of the suggestion on improving the mechanism of state support of the agricultural enterprises, development of small enterprises in rural areas, including farms, private subsidiary farms;
- Involvement in the development and implementation at the regional level of the measures on the development of agrarian market infrastructure, agricultural stock exchanges, livestock and poultry auctions, wholesale food and fruit and vegetables markets, fairs;
- Preparation of the forecast balances for key agricultural crops, assessment of the provision of the regional markets with food;
- Provision of the methodological support to the agricultural produces on the research and development issues, implementation of innovative and investment activities, digitalization, increasing export potential;
- Involvement in the agro-chemical passportization of the agricultural lands, facilitation of the targeted, efficient use of the agricultural lands;
- Participation in the events regarding effective use and preservation of the melioration systems.

c) If there is a Paying Agency in charge of the financial management of agriculture and rural development policy, please submit information on the way it operates. If no, please provide information on the institution in charge of the financial management of the agriculture and rural development policy of your country (Ministry of Agriculture, regional offices, marketing boards, agricultural chambers, etc.).

There is no separate Paying Agency responsible for financial management of agriculture in Ukraine.

The Ministry of Agrarian Policy and Food of Ukraine on the basis of the Regulation on the Ministry of Agrarian Policy and Food of Ukraine, approved by the Resolution of the Cabinet of Ministers of Ukraine No. 124, dated 17 February 2021, provides state support to business entities in the agro-industrial complex, in particular farms and producers of organic agricultural products, agricultural cooperation, agricultural advisory activities. The Ministry of Agrarian Policy and Food of Ukraine is the key budget holder for support programs.

Financial and Economic Department of the Ministry of Agrarian Policy and Food of Ukraine coordinates the provision of the financial support under the support programs in the volumes envisaged by the State Budget of Ukraine for relevant year. Funding of state support is carried out in accordance with the approved passport of budget programs and the monthly list of state budget allocations.

In 2005 the Cabinet of Ministers of Ukraine created the single national commodity exchange (the Resolution of the Cabinet of Ministers of Ukraine dated 26 December 2005 No. 1285). The Agrarian Commodity Exchange is created with the aim of increasing the level of food security of the country, provision of the services of commodity exchange to the economic entities on concluding commodity exchange agreements (contracts) for agricultural produce, sale of the commodity

derivatives, the basic asset of which is agricultural produce, mortgage notes and mortgage bonds, and conducting and/or organization of clearing and settlement activities. The Agrarian Fund is a member of Commodity Exchange.

State specialized budget entity “Agrarian Fund” (established on 06 July 2005, the Resolution of the Cabinet of Ministers of Ukraine No.543) – state specialized budget institution authorized by the Cabinet of Ministers of Ukraine to implement pricing policy in the agro-industrial sector of Ukraine. The institution is established in line with the provisions of the Law of Ukraine “On State Support to Agriculture”. The main tasks include: implementation of the pricing policy in the agro-industrial sector within the limits stipulated by the law; carrying out, on behalf of the state, of the creditor functions for the period of validity of the collateral purchases regime of certain objects of the state price regulation; implementation of the budget programs defined by the law of Ukraine on the state budget of Ukraine for the relevant year.

PJSC “Agrarian Fund” (established on 22 April 2013, Resolution of the Cabinet of Ministers of Ukraine No.364) has the functions of the forward purchases of the grain harvests, which were transferred to the State specialized budget entity “Agrarian Fund” in 2013.

In addition, the Law of Ukraine “On the Fund of Partial Credit Guarantee in Agriculture” No. 1865-IX dated 04 November 2021 established the Fund of partial credit guarantee in agriculture. The Fund is a non-bank financial institution with a special status, which performs the functions of providing support to microenterprise entities, small and medium-sized businesses, individual entrepreneurs engaged in activities in the field of agriculture, by partially guaranteeing the fulfillment of obligations of such entities under credit agreements. The founder of the Fund is the state represented by the Cabinet of Ministers of Ukraine.

Also the system of Chambers of Commerce and Industry is operational in Ukraine, regulated by the Law of Ukraine No. 671/97-BR dated 02 December 1997 “On Chambers of Commerce and Industry in Ukraine”. This system ensures favorable business environment in Ukraine, creates and expands business development opportunities through the opening of new markets for domestic exports, including agricultural products, contributes to the dynamic internationalization of Ukrainian business and active integration into the world economy.

(d) What is the budget earmarked for this agriculture and rural development policy framework with a breakdown by category of the supports available (years 2020-2022)? Are there any programmes/projects financed by external donors in the area of agriculture and rural development?

Regarding budget funds allocated for the implementation of the agricultural and rural development policy

The information on funding the expenditures of the Ministry of Agrarian Policy and Food of Ukraine at the expense of the general fund of the state budget in accordance with the monthly schedule of allocations of the state budget of Ukraine for 2021 is provided in **Appendix 1**. Besides, taking into account that Ministry of Agrarian Policy and Food of Ukraine was joined with the Ministry of Economy of Ukraine in 2020, the extract from the state budget allocation for 2020 is also provided in this Appendix.

Taking into account the military actions on the territory of Ukraine, in 2022 the funds allocated for the implementation of agricultural policy were transferred to the reserve fund.

Regarding programmes / projects in agriculture and rural development funded by external donors

The procedure of attracting, using and monitoring of international technical assistance was approved by the Resolution No. 153 of the Cabinet of Ministers of Ukraine dated 15 February 2002. In accordance with this procedure, projects (programs) are subject to mandatory state registration. State registration of projects (programs) is the basis for accreditation of their implementers, as well as the exercise of the right to receive appropriate benefits, privileges, and immunities provided for by the legislation and international treaties of Ukraine. State registration of projects (programs) is carried out by the Secretariat of the Cabinet of Ministers of Ukraine.

Information about registered international technical assistance projects in which the Ministry of Agrarian Policy and Food of Ukraine is the beneficiary is provided below:

No	Title and summary of international technical assistance project/program	Objective
1.	<p><i>German-Ukrainian Agricultural Policy Dialogue (APD)</i></p> <p>Development partners: German Federal Ministry of Food and Agriculture (BMEL)</p> <p>Budget: 2,190,000 Euros</p> <p>Implementation period: 01.01.2019 - 31.12.2021</p> <p>In 2022, it is planned to register a new phase of the project.</p>	<p>The objective of the project is to provide advisory support to Ukraine in the development of sustainable agriculture and rural development.</p>
2.	<p><i>Ukraine Dairy Business Development Project</i></p> <p>Development partners: Canada's Department of Foreign Affairs, Trade and Development</p> <p>Budget: 27,700,000 Canadian dollars.</p> <p>Implementation period: 01.04.2014 - 31.03.2022</p>	<p>The objective of the project is to support small and medium-sized dairy producers, achieve economies of scale in the services provided by their agricultural service cooperative, and create favorable environment for entrepreneurship, farmers, especially women.</p>

3.	<p><i>Ukrainian Fruit and Vegetable Business Development Project</i></p> <p>Development partners: Canada's Department of Foreign Affairs, Trade and Development</p> <p>Budget: 19,325,100 Euros.</p> <p>Implementation period: 07.08.2014 - 31.03.2022.</p>	<p>The aimed of the project is to increase the profits of small and medium-sized producers of fruit and vegetable products, as well as other participants in the fruit and vegetable market. The project works with producers of fruit and vegetable products from Zaporizhzhia, Kherson, Mykolaiv and Odessa regions.</p>
4.	<p><i>Advancing Sustainable Agriculture in Ukraine</i></p> <p>Development Partners: Swiss Agency for Development and Cooperation, Federal Department of Foreign Affairs.</p> <p>Budget: 264,395 Swiss francs.</p> <p>Implementation period: 01.11.2019 - 31.12.2022.</p>	<p>The objective of the project is to promote the development of sustainable agricultural production in Ukraine. Pilot advisory services model on sustainable development aimed at Ukrainian small and medium-size agricultural producers is implemented in the framework of this project. The achieved results will be used in the future to develop and improve the above-mentioned model and conduct a number of awareness-raising activities to promote sustainable agriculture projects. The project will introduce pilot business model of advisory services for sustainable development for Ukrainian farms using the example of two supply chains (wheat flour and mustard seeds).</p>
5.	<p><i>USAID Agriculture Growing Rural Opportunities Project (AGRO)</i></p> <p>Development partners: USAID</p> <p>Budget: 35,000,000 US dollars</p> <p>Implementation period: 15.11.2019 – 14.11.2024</p>	<p>The program offers a number of tools for micro, small and medium-sized agricultural producers and rural communities, in order to increase productivity and access to markets, improve auxiliary functions in the agricultural sector (such as access to finance, irrigation, agro-laboratory and veterinary services, introduction of product quality and safety systems, etc.), as well as improve the regulatory framework (primarily with regards to the introduction of a fair and transparent agricultural land market and reducing corruption in the agricultural sector).</p>

6.	<p><i>Advising Ukraine on agricultural trade issues - within the framework of the deep and comprehensive free trade agreement (DCFTA) between the EU and Ukraine</i></p> <p>(Phase 2 of the project “Agricultural Trade Issues in Ukraine”, ATU)</p> <p>Development partners: German Federal Ministry of Food and Agriculture (BMEL)</p> <p>Budget: 2,140,000 euros</p> <p>Implementation period: 01.01.2019 - 31.12.2021</p>	<p>The objective of the project is to support Ukrainian agricultural producers and agri-food companies in finding European sales markets, entering, consolidating and expanding their activities at such markets, as well as preparing these companies to open their own markets.</p>
7.	<p><i>Technical assistance to support the implementation of the operation "Basic Loan for the Agriculture - Ukraine"</i></p> <p>Development partners: European Investment Bank</p> <p>Budget: 5,994,950 Euros</p> <p>Implementation period: 24.01.2019 – 23.07.2023</p>	<p>The project works at two key levels – providing support and consultations to the intermediary banks (including commercial banks and agricultural leasing companies), which offer credits to the enterprises growing cereals, oilseed crops and involved in aquiculture/fisheries and can become the participants of the project; support to the companies (small and medium-sized enterprises with average capitalization), which work in the target sectors (cereals, oilseed crops, aquiculture/fisheries) on investment planning and filling the credit application for the EIB project. The support is provided in preparation of the applications for sub-crediting, protection of the applications in partner banks, and implementation of the relevant investment projects.</p>
8.	<p><i>Institutional and Policy Reform for Smallholder Agriculture (IPRSA)</i></p> <p>Development partners: EU</p> <p>Budget: 6,399,000 Euros.</p> <p>Implementation period: 01.07.2021 - 28.02.2025.</p>	<p>The objective of the project is to facilitate a more inclusive, sustainable and competitive agricultural sector focused on protecting the environment, increasing income in rural areas and slowing migration from rural areas, i.e. reducing the outflow of residents from rural areas.</p>

9.	<p><i>Accelerating Private Investment in Agriculture Program</i></p> <p>Development Partners: International Bank for Reconstruction and Development</p> <p>Budget: 200,000,000 American dollars.</p> <p>Implementation period: indefinite</p>	<p>The objective of the program is to alleviate select constraints to increased participation of the private sector, in particular small and medium-sized enterprises, in agricultural input and output markets of Ukraine.</p>
----	--	---

e) Please advise if there are any types of cross-compliance or conditionality systems (for example reduction in agriculture support paid to farmers if environmental, animal welfare, public, animal or plant health standards are not complied with).

In relation to agriculture state support/subsidies, there are no mechanisms for reducing agriculture support paid to agricultural producers if they do not comply with environmental standards, animal welfare standards, state animal or plant health standards.

At the same time, in the European Union these issues are regulated by the Regulation (EU) No. 1306/2013 dated 17 December 2013 and the Regulation (EU) No. 640/2014 dated 11 March 2014, thus Ukrainian legislation still needs to be approximated to the EU legislation in this direction.

Instead, Ukraine is taking measures to stimulate the rational use and protection of land, and increase soil fertility by landowners and land users. Among the main activities are the following:

providing tax and credit benefits to individuals and legal entities that carry out at their own expense measures to protect land from erosion, increase soil fertility and other measures provided by national and regional programs of land use and protection;

exemption of landowners and land users from payment for land and land plots where land reclamation, reclamation, land conservation and other land protection works are performed;

compensation to agricultural producers of the unearned share of income due to conservation of degraded, unproductive, as well as man-made contaminated lands.

Reimbursement of expenses incurred by landowners and land users to improve the ecological condition of lands and increase soil fertility is carried out at the expense of the State Budget of Ukraine and local budgets in accordance with national and regional programs in the field of land protection.

f) Please provide a description of your farm register (if it exists).

The State Agrarian Register is a new electronic platform for interaction between the state and agricultural producers in Ukraine.

The State Agrarian Register (SAR) is a state automated information system for collecting, recording, accumulating, processing and providing information about agricultural producers and the agricultural activities they carry out.

SAR was formed on the basis of the Law of Ukraine No. 985-IX of 05.11.2020 “On amendments to certain laws of Ukraine concerning the functioning of the state agrarian register and improvement of state support for agricultural producers”.

The holder and the administrator of the SAR, the owner and controller of the SAR information is the Ministry of Agrarian Policy and Food of Ukraine.

The procedure for maintaining and administering SAR, as well as the list of information entered in the SAR, were approved by Resolution of the Cabinet of Ministers of Ukraine No. 573 of 02.06.2021 “On the functioning of the state agrarian register”.

SAR is maintained at the expense of the state budget for the purpose of comprehensive integration of information about agricultural producers, their property, land, environmental, labor, financial and credit and other rights and characteristics.

SAR is used for electronic interaction between individuals and legal entities, state bodies, local self-government bodies, and Centers for Administrative Services Provision in order to implement state agrarian policy, in particular in terms of providing state support for agricultural producers.

SAR is maintained through the mechanism of voluntary entering by the agricultural producers of information about themselves. Information about agricultural producers can also be entered into SAR by the central executive authority that ensures the formation of state agrarian policy, agricultural policy, and a Center for Administrative Services Provision.

Agricultural producers have the right to register (independently or through Centers for Administrative Service Provision) in SAR and get access to their personal e-cabinet and manage their profile.

All agricultural producers - legal entities, regardless of their organizational and legal form, farms, including family ones, individual entrepreneurs who are engaged in agricultural activities at their own or leased facilities and supply the products of such activities - have the right to register in SAR.

Registration in SAR is recommended, not mandatory. After all, after registration, agricultural producers acquire the right to receive state support based on the information contained in the SAR (without providing information in paper form). The advantages of registering in SAR for agricultural producers include the ability to track up-to-date information about themselves in state registers and cadastres; receive information about initiatives in Agricultural Policy, receive advice from SAR consulting operators, and so on.

Other registers that are maintained in the agricultural sector can be found in paragraph 12 of the Questionnaire.

(g) Is there a Farm Advisory service or any organisation providing information to beneficiaries/general public (on aid or project financing applications and on other general agricultural and rural development issues)?

The Law of Ukraine “On Agricultural Advisory Activities” is in force in Ukraine. Uniform requirements for registration of agricultural advisory services of Ukraine, agricultural advisors and agricultural expert advisors are established by the Resolution of the Cabinet of Ministers of Ukraine of 03.07.2006 No. 897 “On approval of regulations on registers of agricultural advisory services, as well as agricultural advisors and agricultural expert advisors”. The Ministry of Agrarian Policy and Food of Ukraine maintains a Register of agricultural advisory services and a Register of agricultural advisors and agricultural expert advisors. Registries are updated on the ongoing basis. You can familiarize with the registers on the official website of the Ministry of Agrarian Policy and Food of Ukraine (<https://minagro.gov.ua/doradnictvo>).

The following information about an advisory service is entered in the Register of agricultural advisory services:

- full name;
- legal address, telefax, email address;
- quantitative composition;
- list of advisory services;
- certificate number and date of issue.

The following information about agricultural advisor or agricultural expert advisor is entered in the Register of agricultural advisors and agricultural expert advisors:

- last name, first name and patronymic;
- individual tax payer number;
- place of work, position, home address, telefax, email address;
- specialty according to the Diploma of graduation from a higher educational institution, number and date of its issue;
- academic degree/academic title, number and date of issue of the diploma/certificate;
- number and date of issue of the qualification certificate;
- list of advisory services according to the qualification certificate;
- date of completion of the last professional development training.

In Ukraine, state support is envisioned for the provision of socially oriented advisory services to business entities operating in rural areas, to rural population, as well as to local self-government bodies and executive authorities (by directions: animal husbandry, veterinary, agronomy, taxation in agriculture, accounting in agriculture, management accounting, organic production, environmental management, attraction of financial and credit resources and diversification of the agricultural activities).

h) Do you have a network at national and/or regional level that gathers organisations and administrations involved in rural development and facilitates sharing of information and knowledge between rural development stakeholders?

The All-Ukrainian Association of Communities (focusing on rural development) and the All-Ukrainian Association of Amalgamated Territorial Communities – civil society organisations that bring together the heads of territorial communities (administrative and territorial unit) – operate in Ukraine. These organisations, in cooperation with the Ministry of Agrarian Policy and Food of Ukraine, the Ministry for Communities and Territories Development of Ukraine, other sector agencies, research and educational institutions, and civil society organisations, facilitate sharing of information and knowledge on the development of communities, including rural communities. These civil society organisations have a branched regional structure.

The National Association of Agricultural Advisory Services “Dorada” is actively involved in sharing of information on rural development and agricultural practices for small producers.

Advisory activities are regulated by the Constitution of Ukraine, the Commercial Code of Ukraine, the Civil Code of Ukraine, Law of Ukraine “On Agricultural Advisory Activities” No. 1807-IV dated 17 June 2004, and other regulatory acts of Ukraine. In Ukraine, there are agricultural advisory services (legal entities), agricultural advisors and agricultural expert advisors (individuals).

According to the Ministry of Agrarian Policy and Food of Ukraine, as of the beginning of 2022, 39 economic entities holding certificates for providing advisory services and 511 agricultural advisors and expert advisors were registered in Ukraine.

All agricultural advisory services and agricultural advisors and expert advisors are the members of the National Association of Agricultural Advisory Services of Ukraine (“Dorada”).

i) Do you have a system in place that links scientific community and farming practice and promotes innovative solutions (comparable to European Innovation Partnership (EIP) for agricultural productivity and sustainability)?

There is no analog of the European Investment Partnership in Ukraine. The following structures operate in cooperation with each other and with the agricultural business:

1) The National Academy of Agrarian Sciences (has 54 scientific institutions, which are united in six departments: agriculture, land reclamation and mechanization; crop production; zootechnics; veterinary medicine; agricultural economy and food; scientific support for innovative development);

2) Institutions of higher and professional pre-higher education with agricultural specialization (19 institutions of higher education and more than 100 institutions of professional pre-higher education);

3) Private innovation structures and separate science parks;

4) National Association of Agricultural Advisory Services “Dorada” (unites 39 advisory services, more than 500 advisors and expert advisors).

In general, Ukraine operates an innovation provider system at the national and regional levels, which is aimed at implementing innovative solutions for agricultural productivity and sustainability. The combination of elements and relationships of this system provides a combination of the scientific community and agricultural practices to optimize, simplify and better coordinate existing domestic financial instruments and initiatives. At the same time, this system is not sufficiently integrated into the European Innovation Partnership and is not funded by the European Commission.

The structure of innovation provider in Ukraine is determined by national legislation, including the laws of Ukraine “On Priority Areas of Development of Science and Technology”, “On Priority Areas of Innovation Activity in Ukraine”, “On Scientific and Scientific-Technical Expertise”, “On Scientific and Scientific-Technical Activities”, “On Innovation Activity”, “On State Regulation of Activities in the Field of Technology Transfer”, “On the Protection of Rights to Inventions and Utility Models”, “On the Protection of Rights to Industrial Designs”, “On Copyright and Related Rights”, “On the Protection of Rights to Plant Varieties”.

Innovation provider in the agricultural sector of Ukraine brings together innovation participants (farmers, advisers, researchers, businesses, non-governmental organizations, etc.) and helps to establish a link between research and practice.

In the innovation provider system in Ukraine, there are two key self-governing subsystems that, in accordance with the tasks assigned to them, contribute to the development of competitive and sustainable agriculture – the National Academy of Sciences of Ukraine (NASU) and the National Academy of Agrarian Sciences of Ukraine (hereinafter - NAAS).

An integral system element of innovation provider in the agro-industrial complex of Ukraine is the Ministry of Agrarian Policy and Food together with its subordinate research institutions and educational institutions. The Ministry of Agrarian Policy and Food, among other things, performs the functions of a state customer of research and development developments in the agro-industrial complex, carried out at the expense of state funds, and also contributes to the coordination of innovative projects.

The Ministry of Agrarian Policy and Food of Ukraine has a scientific and expert council as an advisory body consisting of scientists, representatives of branch public organizations and associations, and civil servants.

Subordinate to the Ministry of Agrarian Policy and Food of Ukraine research institutions have a rather extensive own regional structure, and also work directly with agricultural producers in accordance with concluded agreements on technology transfer, which generally allows taking into account the features of soil and climate zones of agricultural production in the country and informing market participants and agricultural producers about modern scientific and technical achievements and progressive technical and technological solutions. One of the forms of such systematic cooperation with the National Academy of Agrarian Sciences, agricultural universities, agricultural associations, consultants and agricultural enterprises is Field Days, where one can get acquainted with the results of expert examinations in experimental fields, practical demonstration of new equipment in work, and discussion with participants of the agricultural market.

Another platform for the introduction of innovations, technology transfer and exchange of “know-how” in the system of innovative provider in the agricultural sector is a network of institutions of higher and professional education, including training, retraining and advanced training of personnel of the agro-industrial complex. In particular, a positive result of systematic cooperation between agricultural educational institutions and business was the Master's Program “Agrokebety” launched in 2019 to train specialists in accordance with modern challenges of the labor market and the requirements of employers in the agricultural sector.

These approaches to combining scientific activity and agricultural practice in Ukraine have their advantages and disadvantages, and require modernization, taking into account the progressive world experience. In particular, it is advisable to improve the mechanisms of integration into the European Research Area, combining the experience and resources of the public and private sectors at the EU level, national and regional levels, and better coordinate public procurement so that scientific achievements better and faster enter the market, have a public result and accelerate the modernization of agricultural production.

Also, within the framework of the Competitive selection of scientific, scientific and technical works and projects aimed at the implementation of Ukraine's commitments in the framework program “Horizon 2020”, financial support is provided for the implementation by higher education institutions, small and medium-sized enterprises and research institutions of the research on “technical and technological renewal and development of agro-industrial complex, organic production and food security”.

2. Please provide a description of measures including financial details or any other policies specifically applied in the sector of primary agricultural production, processing and marketing of agricultural products, as well as in the forestry sector. This should include support such as: direct and indirect input subsidies; social policy measures primarily directed to the agriculture sector; tax policy measures primarily directed to the agriculture sector; policies directed to privatisation of land and other factors of production (including the agro-food processing sector); measures which are aimed at developing a land market; credit subsidies; soft loans and guarantees (describing also the available financial institutions; risk management tools and others).

State support for agriculture

In Ukraine, there is an industry specific Law of Ukraine No. 1877-IV “On State Support of Agriculture in Ukraine” dated 24 June 2004, which sets the state policy framework in the budget, credit, price, regulatory and other areas of public administration to stimulate the production of agricultural products and the development of the agricultural market, as well as ensuring food security of the population. In addition, there are a number of other laws and bylaws that regulate certain areas of support for the agricultural sector.

The law provides for the following areas of support for business entities of the agro-industrial complex:

➤ Easing of credits:

- short-term credits - to replenish working capital;

- medium-term credits - replenishment of working capital, purchase of property assets for agricultural production, implementation of expenses related to the construction and reconstruction of agricultural production facilities, as well as processing of agricultural products;

- long-term credits - purchase of property assets for agricultural production, equipment for agricultural products production and processing, construction and reconstruction of production facilities (including wholesale markets for agricultural products, storage facilities for storing grain, vegetables and fruits).

➤ Financial support for farmers and family farms;

➤ State support for livestock goods producers;

➤ Subsidies for the development of agricultural producers and stimulation of agricultural products' production;

➤ State support for producers of fruits, berries, grapes, hops and aquaculture;

➤ Other types of state support for agricultural producers:

- subsidies per unit of cultivated land;

- reimbursement of cost of construction and reconstruction of livestock farms and complexes for keeping farm animals and poultry etc.;

- reimbursement of up to 80 percent of the cost of breeding (genetic) resources;

- partial compensation for the cost of domestically manufactured agricultural machinery;

- support for irrigation and land reclamation;

- insurance.

In addition to the above mentioned, agricultural producers, as business entities have the opportunity to participate and to be a recipient in other areas of state support, which is provided for by the legislation of Ukraine.

State support in 2021

The Law of Ukraine “On the State Budget of Ukraine for 2021” provided for expenditures of the general fund in the amount of 4,665 million UAH to support agricultural producers. The directions of state support are defined by the procedure for using funds provided in the state budget for financial support of agricultural producers, approved by Resolution of the Cabinet of Ministers of Ukraine No.77 dated 08.02.2017 (as amended), including, in particular:

- state support for the development of animal husbandry and processing of agricultural products – 1,609.6 million UAH;

- financial support for activities in the agro-industrial complex by reducing the cost of loans 1,202.6 million UAH;

- partial compensation for the cost of domestically manufactured agricultural machinery and equipment – 991.4 million UAH;

- financial support for the development of horticulture, viticulture and hop growing – 512.2 million UAH;

- financial support for the development of farms – 120.8 million UAH;

- compensation for losses from damage to agricultural crops due to human-induced and natural emergencies – 107.9 million UAH;

- state support for potato producers – 53.2 million UAH.

- state support for agricultural producers by allocating budget subsidies per unit of cultivated land – 50.0 million UAH;

- state support for agricultural producers using reclaimed land – 16.7 million UAH;

- provision of additional financial support to family farms through the mechanism of additional payment in favor of insured persons – members/heads of the family farm of a single contribution to mandatory state social insurance – 0.6 million UAH.

Provision of state support for the further development of advisory services:

In 2021, according to Paragraph 7 of the Procedure of using state budget funds envisaged for financial support of farms development, approved by the Resolution of the Cabinet of Ministers of Ukraine No. 106 dated 07 February 2018, partial compensation of the farms’ expenses (in the amount of 90 percent of the cost, but not more than 10,000 UAH) is envisaged. These expenses may include provided agricultural advisory services (except for newly created ones) in the areas of zootechnics, veterinary medicine, agronomy, taxation in agriculture, accounting in agriculture, management accounting, organic production, attracting financial and credit resources, the introduction of safety systems in production of food and animal feed, environmental management and foreign economic activity.

And also, according to Paragraph 8 of the Procedure of using state budget funds envisaged for financial support of farms development, approved by the Resolution of the Cabinet of Ministers of Ukraine No. 106 dated 07 February 2018, financial support to newly created farms in the period of

their formation (the first three years after the creation) is provided for agricultural advisory services in the areas: zootechnicians, veterinary medicine, agronomy, taxation in agriculture, accounting in agriculture, management accounting, organic production, environmental management, attracting financial and credit resources and diversification of agricultural activities. This is one-off support in the amount not exceeding 36,000 UAH, subject to availability of previously concluded contract before the end of the current budget period and on the basis of an act/acts of works performed.

Insurance

Another financial instrument for farmers is agricultural insurance, by subsidizing insurance premiums.

According to the Law “On the Specifics of Agricultural Products Insurance with State Support”, state support for insurance of agricultural products means providing funds from the state budget to agricultural producers in the form of reimbursement of up to 60 percent of the cost of the insurance payment (insurance premium) accrued under insurance contracts.

The Ministry of Agrarian Policy and Food of Ukraine has the right to publish a list of insurers eligible for insurance of agricultural products with state support. Additional requirements based on the provisions of the Law, may be established in particular in terms of requirements for ensuring the solvency of such insurers, requirements and the procedure for reinsurance of risks under agricultural product insurance contracts with state support, requirements for own maintenance, and the specifics of forming insurance reserves, accounting for insurance contracts.

Insurers have the right to enter into an insurance contract for the occurrence of Agricultural Insurance Risk (Insurance Risks) in relation to:

- 1) crops, crop yields, including to cover losses incurred in relation to their cultivation;
- 2) perennial plantings and their yield, including to cover losses incurred in relation to their cultivation;
- 3) farm animals, including to cover losses incurred in relation to their breeding;
- 4) income from the sale of properly planted, fattened, caught, collected, manufactured agricultural products, including to cover losses incurred in connection with non-receipt (shortfall) of the expected income (profit) from the sale of properly planted, fattened, caught, collected, manufactured primary (without secondary processing and processing) agricultural products for the payback period, including on the basis of the Income Index, including indicators of yield and product prices;
- 5) deviation of the parameter (values) of the index(s) from the limit value stipulated in the insurance contract.

In addition, it provides for the possibility of insurance with state support both for standardized insurance products (developed by the Ministry of Agrarian Policy and Food in Ukraine in coordination with the NBU) and insurance products developed by insurers.

Tax policy

For agricultural producers, the Tax Code of Ukraine provides a simplified taxation system in the form of a single group 4 tax.

It provides for the payment of a single fixed contribution in the form of a percentage of the normative monetary assessment of the land plot, depending on the type of land on which economic activity is carried out:

- for arable land, hayfields and pastures - 0.95%;
- for arable land, hayfields and pastures located in mountainous areas and in Polissya territories - 0.57%;
- for perennial plantings - 0.57%;
- for perennial plantings located in mountainous areas and in Polissya territories-0.19%;
- for Water Fund lands - 2.43%;
- for agricultural land located in under cover conditions - 6.33%.

Minimum Tax Liability

The Law of Ukraine “On amendments to the Tax Code of Ukraine and other legislative acts of Ukraine concerning ensuring the balance of budget revenues” dated 30 November 2021 No. 1914 for taxpayers-individuals who own and/or use (lease, sublease, emphyteusis, permanent use) land plots classified as agricultural land, introduces the concept of minimum tax liability. That is, payers are residents who own and/or use (lease (sublease), on the terms of emphyteusis, constantly use) land plots classified as agricultural land.

The estimated amount of the minimum tax liability is determined according to the formulas established by Article 38¹ of the Tax Code of Ukraine.

According to paragraph 64 of Section XX "Transitional Provisions" of the Tax Code of Ukraine, the first year for which the minimum tax liability is determined is 2022.

Policies aimed at privatisation of land and other factors of production (including the agri-food processing sector)

According to the Resolution of the Verkhovna Rada of the Ukrainian SSR of 18 December, 1990 No. 563-XII “On Land Reform”, from March 15, 1991 all the lands of Ukraine were declared the object of land reform. The task of this reform is the redistribution of land with the simultaneous transfer into private and collective ownership, as well as into the use of enterprises, institutions and organizations to create conditions for equal development of various forms of land management, diversified economy, rational use and protection of land. On March 13, 1992, the Verkhovna Rada of Ukraine adopted the Resolution “On Accelerating Land Reform and Privatization of Land” No. 2200-XII, which allowed denationalization, distribution and privatization of land by residents of cities and towns for individual housing construction, fruits and vegetables gardening, providing of land plots to enterprises, organizations and institutions for collective gardening from the state lands.

The Decree of the President of Ukraine of 10 November, 1994 “On Urgent Measures to Accelerate Land Reform in the Field of Agricultural Production” accelerated the process of land privatization in Ukraine. The next Decree of the President of Ukraine No. 720/95 determined the procedure for distribution of lands transferred to collective ownership to agricultural enterprises and organizations, according to which distribution was carried out both during membership and in case of withdrawal from membership of a collective entity. In the first case, the document certifying the right to a share was a certificate, and in the second - a state act on the right of private ownership of land. On December 3, 1999, the Decree of the President of Ukraine “On Urgent Measures to

Accelerate the Reform of the Agrarian Sector of the Economy” was signed. It became the basis for the reform during December 1999 - April 2000 of collective agricultural enterprises on the basis of private ownership of land and property and mass privatization of agricultural land.

Article 25 of the Land Code of Ukraine of 25 October 2001 No. 2768-III establishes the procedure for privatization of lands of state and communal agricultural enterprises, institutions and organizations. Land plots are transferred to employees of these enterprises, institutions and organizations, employees of state and municipal institutions of education, culture, health care located in the territory of the relevant council, as well as retirees from among them with allocation to each of them of a land share. Lands are transferred to these persons in private ownership free of charge. Other property of state and municipal enterprises in case of their privatization is subject to sale at auction using the electronic trading system in accordance with the Law of Ukraine of 18 January 2018 No. 2269-VIII “On privatization of state and municipal property”.

3. Please describe the land cadastre system and the mechanism of its implementation, administering and monitoring. Is there any system for the identification of agricultural parcels?

According to the Law of Ukraine of 07 July 2011 No. 3613-VI “On the State Land Cadastre”, the State Land Cadastre is the only state geographic information system containing data about lands located within the state border of Ukraine, their purpose, restrictions on their use and data on quantitative and qualitative characteristics of land, their evaluation, the distribution of land between owners and users.

Objects of the State Land Cadastre are: lands within the state border of Ukraine; lands within the territory of administrative-territorial units, lands within the territories of territorial communities; restrictions on land use; land parcels. Entering information about these objects in the State Land Cadastre is mandatory. The information of the State Land Cadastre is official.

The state land cadastre is maintained for the purpose of providing information to public authorities and local governments, individuals and legal entities in: regulation of land relations; land management; organization of rational use and protection of lands; land management; land valuation; formation and maintenance of urban cadastre, cadastres of other natural resources; collection of land fees. The State Land Cadastre is state property.

Maintenance of the State Land Cadastre is carried out by: creating an appropriate state geodetic and cartographic framework; entering information about the objects of the State Land Cadastre; amending the information on the objects of the State Land Cadastre; processing and systematization of information about the objects of the State Land Cadastre. The State Land Cadastre includes geospatial data, metadata and services, publication, work with and access to which is carried out on the Internet in accordance with the Law of Ukraine “On National Geospatial Data Infrastructure”. The State Land Cadastre is kept on electronic and paper media. In case of discrepancies between information on electronic and paper media, priority is given to information on paper.

Responsibility for maintaining and administering the State Land Cadastre lies with the central executive body that implements state policy in the field of land relations (State Service of Ukraine for Geodesy, Cartography and Cadastre), which is the holder of the State Land Cadastre.

The administrator of the State Land Cadastre is a state enterprise subordinated to the central executive body, which implements state policy in the field of land relations, and takes measures to create and maintain software of the State Land Cadastre, is responsible for technical and technological support, preservation and protection of information contained in the State Land Cadastre,

development and operation of software for land relations monitoring and information interaction with other state electronic information resources.

The information is entered into and provided for the State Land Cadastre by state cadastral registrars, who are officials of the central executive body that implements state policy in the field of land relations. The information from the State Land Cadastre may also be provided by administrators of the centers for administrative services provision. Notaries have the right to receive information from the State Land Cadastre when committing notarial acts related to real estate and/or during the state registration of property rights to immovable property and their encumbrances, as well as persons who in accordance with the law carry out state registration of property rights to immovable property and their encumbrances during such registration.

State cadastral registrars are civil servants. A state cadastral registrar may be a citizen of Ukraine who has a higher land surveyor or legal education and experience of land surveying or legal work of at least two years.

The state cadastral registrar has a certificate of the state cadastral registrar and its own seal. The state cadastral registrar has access to all information of the State Land Cadastre, independently decides on entering information into it, providing such information, refusing to perform such actions. Interference of any bodies, officials and civil servants, citizens or their associations in the activities of the state cadastral registrar is prohibited.

The same rules and procedures apply for the registration of both agricultural and non-agricultural land. The State Land Cadastre includes the following information on land plots:

- cadastral number;
- location, including data from the State Address Register (if available);
- description of boundaries;
- acreage;
- measures of lines along the perimeter;
- coordinates of turning points of borders;
- data on the connection of turning points of borders to the points of the state geodetic network;
- data on the quality of land and soil quality;
- information on other objects of the State Land Cadastre, which territorially (fully or partially) includes the land plot;
- purpose (category of land, type of land use within a certain category of land);
- composition of lands with indication of contours, coordinates of turning points, geometric parameters, names, addresses of buildings, structures and engineering networks, identifiers of construction objects and completed objects, information on commissioning of completed objects;
- information on restrictions on land use;
- information on the part of the land plot to which the servitude, sublease agreement of the land plot applies;
- normative monetary valuation;
- information on land management documentation and land valuation in relation to the land plot and other documents on the basis of which the information on the land plot has been established.

Information on the land plot also contains information on its owners (users), registered property rights, according to the State Register of Real Property Rights.

On the official website of the central executive body implementing state policy in the field of land relations (<https://map.land.gov.ua>)²⁷, the cartographic basis, index cadastral maps (plans) and all information of the State Land Cadastre are published, including in vector form, without the right to change (edit) them. Technological and software tools required for the publication of the State Land Cadastre should provide legal entities and individuals with the ability to anonymously view, copy and print information, based on common web browsers and editors, without the need to use specially designed technological and software tools, around the clock, without restrictions. Viewing, copying and printing information on personal data of land owners and users is subject to identification of the person (natural or legal) who accesses the information, using a qualified electronic digital signature or other alternative means of identification. Searching, review, copying and printing information from the State Land Cadastre, published on the official website of the central executive body implementing state policy in the field of land relations, are free of charge.

For free access to the published data of the State Land Cadastre on the Internet, the following electronic services are created and operated: data retrieval services; data viewing (visualization) services; analytical services; data download services; application programming interfaces for accessing data without the right to edit it.

The procedure for maintaining the State Land Cadastre, approved by the Resolution of the Cabinet of Ministers of Ukraine dated 17 October 2012 No. 1051, determines the detailed procedure and requirements for maintaining the State Land Cadastre. The procedure for administration of the State Land Cadastre was approved by the Order of the Ministry of Agrarian Policy and Food of Ukraine dated 27 December 2012 No. 836. Administration of the State Land Cadastre is carried out in order to ensure the functioning of the following components:

- basic means of automated processing, storage, transmission and protection of information;
- network equipment and information and telecommunication networks;
- infrastructure systems and complexes to ensure the operating environment of information processing and storage facilities, network equipment;
- monitoring and security and alarm systems and complexes;
- objects and separate complexes (data processing centers (main, reserve); storage places of carriers and electronic archives; places and complexes of reserve power supply);
- general software of the State Land Cadastre;
- software for providing information services, which is used to ensure information interaction with other cadastres and information systems, their holders and administrators to use the information of the State Land Cadastre.

The State Land Cadastre is administered by the State Enterprise “State Land Cadastre Center”²⁸ on the basis of agreements concluded with the State Geocadastre for works and services related to the administration of the State Land Cadastre, as well as agreements with users for works and services related to ensuring access to the State Land Cadastre in cases provided by law.

The procedure for maintaining the State Land Cadastre also includes the procedure of ongoing monitoring of the consideration of application for entering data (data amendment) to the State Land Cadastre or use of the relevant data. Recording, publication and search and copying of the information

²⁷ In wartime, the public cadastral map and the portal of electronic services of the State Land Cadastre may be disabled for security reasons.

²⁸ The authority responsible for maintenance of the State Land Cadastre is the Stategeocadastre but the functions of immediate maintenance are entrusted by the law to its subordinate state enterprise - SE “State Land Cadastre Centre”.

on the number of relevant applications, status of consideration of each application is available in the public domain through the web-services of the official website of the State Land Cadastre (publication is made in the e-services of the State Land Cadastre <http://e.land.gov.ua>). Monitoring of applications for entering data (data amendment) to the State Land Cadastre or use of the relevant data allows everybody to follow the timeliness of the relevant cadaster service provision, facilitates decreasing of the number of the mistakes in the data submitted for inclusion into the State Land Cadastre, ensures planning of the optimal workload for the administrative services providers.

As of February 2022, the geographic information system of the State Land Cadastre registered 42.7 million hectares of land (71% of Ukraine's territory), including 32.6 million hectares of agricultural land (76% of their total), the boundaries of 10,044 settlements (34% of the total), information on the regulatory monetary value of 14,216 settlements (48% of the total) and all agricultural land outside the settlements.

4. Is there any Geographical Information System(s) used for the purpose of management and dissemination of the agricultural policy? If any exists, please describe it and detail its purposes.

According to the Regulation of the Ministry of Agrarian Policy and Food of Ukraine, approved by the Cabinet of Ministers of Ukraine dated 17 February, 2021 No. 124, the Ministry ensures the formation and implementation of state policy in the field of national geospatial data infrastructure.

Resolution of the Cabinet of Ministers of Ukraine of 26 May, 2021 No. 532 determined the Procedure for the functioning of the national geospatial data infrastructure, which determines the mechanism of organization of production, updating, processing, storage, publication, visualization, supply and use of geospatial data and metadata, other activities related to them, and sets requirements for the production, upgrade, processing, storage, supply and use of geospatial data of the national geospatial data infrastructure.

In June 2021, the Ministry of Agrarian Policy and Food of Ukraine launched the geoportal of the National Geospatial Data Infrastructure (<https://nsdi.gov.ua>), which provides for the full integration of geospatial data on resources, including land, water, forests and other natural resources, as well as infrastructure, data on engineering networks and roads of Ukraine. The portal is currently operates in test mode²⁹.

Order of the Ministry of Agrarian Policy and Food of Ukraine dated 10 November, 2021 No. 347 (registered with the Ministry of Justice of Ukraine on 12 January, 2022 No. 21/37357) approved Technical requirements for metadata for geospatial data sets and geographic information services of the national geospatial data infrastructure. These Technical Requirements are harmonized with Commission Regulation (EC) No. 1205/2008 of 3 December 2008 implementing Directive 2007/2/EC of the European Parliament and the Council as regards metadata taking into account the latest version of the international standard ISO 19115-1:2014 “Geographical information. Metadata. Part 1 – Fundamentals”.

According to the Law of Ukraine of 24 June 2004 No. 1877-IV “On State Support of Agriculture in Ukraine” (as amended by the Law of Ukraine of 05 November 2020 No. 985-IX “On amendments to some laws of Ukraine on the functioning of the State Agrarian Register and improving the state support of agricultural producers”) the process of deployment of the State Agrarian Register

²⁹ In wartime, the geoportal may be disabled for security reasons.

is underway in Ukraine in order to comprehensively integrate information on agricultural producers, their property, land, environmental, labor, financial and credit and other rights and characteristics.

The procedure of information interaction between the State Land Cadastre, other cadastres and information systems, approved by the Cabinet of Ministers of Ukraine dated 3 June, 2013 No. 483, defines the mechanism of information exchange between the State Land Cadastre, other cadastres and information systems and the list of information, which can be exchanged in the process of such interaction. The purpose of information interaction is also the formation of a single cartographic basis for geographic information systems; ensuring mutual replenishment of information systems; ensuring the mandatory transfer of geospatial data and other information from information systems to the State Land Cadastre, as well as preventing duplication of information content of information systems and providing up-to-date geospatial data of public authorities, local governments, legal entities and individuals.

The procedure for maintaining and administering the State Agrarian Register, approved by the Cabinet of Ministers of Ukraine on 2 June, 2021 No. 573, provides that information on agricultural activities of agricultural producers includes, inter alia, information on land owned by agricultural producers on the right property or other real right (cadastral number; area of the land plot; purpose; real right to the land plot; term of the real right to the land plot). This information is entered into the State Agrarian Register automatically by electronic information interaction with the State Land Cadastre, which is the only state geographic information system containing data on lands located within the state border of Ukraine, their purpose, restrictions on their use, and data on quantitative and qualitative characteristics of lands, their evaluation, the distribution of land between owners and users.

Currently, organizational and technical measures are underway to deploy the State Agrarian Register.

5. Please inform on the existence of microeconomic instruments providing an overview of farm economics, in particular on the income of agricultural holdings, sectoral analysis and distribution of direct payments (income support paid directly to farmers) comparable to the EU Farm Accountancy Data Network (FADN). If they exist, please describe them, including their structure and legal basis.

A system for comprehensive regulatory state statistical reporting is the instrument similar to the EU Farm Accountancy Data Network (FADN). Information is collected, processed, and provided by the State Statistics Service of Ukraine pursuant to Law of Ukraine “On State Statistics” No. 2614-XII dated 17 September 1992. Information by sections in the public domain can be found here: <http://www.ukrstat.gov.ua/>.

This reporting system does not contain data of the incomes of agro-holdings, but it provides general overview of the statistical information on agriculture, forestry, and fisheries. Mentioned information refers to the section “Economic Statistics” (tab “Statistic information”) and includes the following sections: crop growing, animal husbandry, the delivery of agricultural products to processing companies, sales of agricultural products by companies and private households, costs of production of agricultural products (works, services), economic accounts for agriculture, agricultural activities of rural households, forestry activity indicators, hunting and fisheries.

The information on the state support indicators can be found at the official web-site of the Ministry of Agrarian Policy and Food of Ukraine, where the dashboard “State Support” is available in public domain. The dashboard informs about all the financing and opportunities related to the state support in agriculture for the period 2019-2021. The service can be checked up at <https://minagro.gov.ua/pidtrimka>.

II MARKET MEASURES

6. Please provide an overview of the policies applied for each of the products or product categories listed at d) below covering:

a) The aims and the main elements of any product-specific agricultural policy measures applied: market intervention (buying-in, public/private storage, etc.), production quotas, production or export levy, tax, import duties and equivalent charges and other border measures, such as tariff rate quotas and other preferential imports production control, etc.;

Arable crops, specialized crops and products

- cereals;***
- oil and protein crops***
- rice;***
- sugar;***
- dried fodder, seeds, hops;***
- olive oil and table olives;***
- flax and hemp;***
- fruits and vegetables;***
- processed vegetables and fruits;***
- bananas;***
- wine;***
- live plants and floricultural products;***
- raw tobacco;***
- ethyl alcohol of agricultural origin 5;***
- beekeeping products;***
- silkworms, and***
- cotton.***

The purchase of agricultural and food products for the needs of the State Reserve Agency of Ukraine is carried out in accordance with the approved nomenclature, but not for the purpose of market regulation.

In accordance with the terms of the General Agreement on Tariffs and Trade/World Trade Organization, bilateral and multilateral international trade agreements, and national legislation a mechanism for licensing and setting the quotas (restrictions) on exports and imports are envisaged,

which can be applied to the list of products defined by the Cabinet of Ministers of Ukraine. Mechanisms of application are determined by the Law of Ukraine “On Foreign Economic Activity”.

Production quotas do not apply.

Export duties are being established by separate directly applicable laws and import duties - by the Law of Ukraine “On Customs Tariff”. Regarding the above-mentioned agricultural products, the following is defined:

- cereals – no export duty, import duty from 10 to 20% depending on the type of imported product;
- oil and protein products – no export duty, import duty from 5 to 30% depending on the type of imported product;
- rice – no export duty, import duty from 5 to 20% depending on the type of imported product;
- sugar – no export duty, import duty from 5 to 20% depending on the type of imported product;
- dried fodder, seeds, hops – no export duty, import duty on fodder and hops from 5 to 20% depending on the type of imported product, and for seeds of cereals, legumes, oilseeds from 0 to 20% depending on imported crops;
- olive oil and table olives – no export duty, import duty from 10 to 17% depending on the type of imported products;
- flax and hemp – no export duty, import duty from 0 to 5% depending on the type of imported product;
- fruits and vegetables – no export duty, import duty from 0 to 20% depending on the type of imported products;
- processed vegetables and fruits – no export duty, import duty from 0 to 20% depending on the type of imported products;
- bananas – no export duty, 0% import duty on fresh and dried bananas, and 2% on processed products (puree, etc.);
- wine – no export duty, import duty of 0.3 EUR/litter depending on the type of wine (from 01 January 2021, 0% import duty was introduced in Ukraine for the wine from the EU, which is envisaged by Ukraine’s commitment on setting 0% import duty on the range of goods within the seven-year period after conclusion of the economic part of the Association Agreement with the EU);
- live plants and floricultural products – no export duty, import duty from 5 to 15% depending on the type of imported products;
- raw tobacco – no export duty, import duty 1%;
- ethyl alcohol of agricultural origin – no export duty, import duty – in accordance with the Law of Ukraine “On Customs Tariff”, UKTZED (Ukrainian Customs Commodity Classification Code) No. 22 (0-10%);
- beekeeping products – no export duty, import duty 13%;
- silkworms – no export duty, 10% import duty;
- cotton – no export duty, import duty from 10% to 20% depending on the type of imported products (the Law of Ukraine “On amendments to the Customs Tariff of Ukraine regarding unification of the import duty rates for the light industry goods” sets the reduced rates of the import duty 0-5%).

Other import duty rates on the aforementioned list may be set in the framework of free trade agreements or other agreements concluded with Ukraine.

Ukraine has been a member of the World Trade Organization (WTO) since 2008. As a member of the WTO, Ukraine has committed itself to liberalizing trade, including in agricultural products. With regard to the instruments of tariff and non-tariff regulation, as well as the application of quotas defined in the relevant trade agreements, all these measures are applied in Ukraine in accordance with the WTO rules.

Also, each of the signed bilateral trade agreements contains provisions on the liberalization of trade, including agricultural products, as well as articles on sanitary and phytosanitary rules applicable under the Agreements. (For your reference the list of agreements is provided in ***Attachment 2***).

Products of animal origin

- ***beef and veal;***
- ***milk and milk products;***
- ***pigmeat;***
- ***sheepmeat and goatmeat;***
- ***eggs;***
- ***poultrymeat.***

The purchase of agricultural and food products for the needs of the State Reserve Agency of Ukraine is carried out in accordance with the approved nomenclature, but not for the purpose of market regulation.

In accordance with the terms of the General Agreement on Tariffs and Trade/World Trade Organization, bilateral and multilateral international trade agreements, and national legislation a mechanism for licensing and setting the quotas (restrictions) on exports and imports are envisaged, which can be applied to the list of products defined by the Cabinet of Ministers of Ukraine. Mechanisms of application are determined by the Law of Ukraine “On Foreign Economic Activity”.

Production quotas do not apply.

Export (established by separate directly applicable laws) and import duties (established by the Law of Ukraine “On Customs Tariff”). Regarding the part of the above-mentioned agricultural products, the following is defined:

- beef and veal – no export duty, import duty of 15%;
- milk and milk products – no export duty, import duty of 10%,
- pigmeat – no export duty, import duty of 10-12%,
- sheepmeat and goatmeat – no export duty, import duty of 15%;
- poultry eggs – no export duty, import duty of 5-12%, and
- poultry meat – no export duty, import duty of 5-15%.

Other import duty rates on the above list may be set in the framework of free trade agreements or other agreements concluded with Ukraine.

b) The management of import tariff rate quotas explaining whether a system of import/export licences is used, and whether such a system provides for securities (bank guarantees);

The Customs Tariff of Ukraine contains a list of national tax rates – import duty on goods imported into the customs territory of Ukraine and systematized according to the Ukrainian Customs Commodity Classification Code System (UKTZED) compiled on the basis of the Harmonized Commodity Description and Coding System is set forth in the Law of Ukraine “On Customs Tariff”, dated of 04 June 2020, Reg. No. 674-IX.

The system of licensing of exports and imports is determined by the Law of Ukraine “On Foreign Economic Activity” of 16 April 1991, Reg. No. 959-XII. Bank guarantees for this system are not envisaged.

Every year the lists of goods, export and import of which are subject to licensing, and quotas for the respective year are established by the Resolution of the Cabinet of Ministers of Ukraine.

According to the Law of Ukraine “On Foreign Economic Activities” (Article 11), it is prohibited to apply at the same time to the same goods the export and import duty and the licensing and export quota regime in accordance with Article 16 of this Law, except for the licensing and quota regime as a measure in response to discriminatory actions of other states.

Licensing of export (import) of goods is carried out in the form of automatic or non-automatic licensing.

Automatic licensing is defined as a set of administrative actions of the executive authority on economic policy to grant the subject of foreign economic activity permission to carry out during a certain period of export (import) of goods for which no quotas (quantitative or other restrictions) are determined. Automatic licensing of exports (imports) as an administrative procedure for registration and issuance of licenses does not have a restrictive effect on goods whose export (import) is subject to licensing.

Non-automatic licensing is defined as a set of administrative actions of the executive body on economic policy to grant the subject of foreign economic activity permission to carry out during a certain period of export (import) of goods subject to certain quotas (quantitative or other restrictions). Non-automatic licensing of exports (imports) as an administrative procedure for registration and issuance of licenses is used in the case of quotas (quantitative or other restrictions) on exports (imports) of goods.

Only one type of license can be set for each type of product.

Tariff import quotas are set by separate legislation.

Allocation of the tariff quota for the import of raw cane sugar into Ukraine is carried out according to UKTZED 1701 1410 00 and 1701 1490 00 and taking into consideration the commitments made by Ukraine upon accession to the World Trade Organization and in accordance with the Regulations on Import Licenses to Ukraine for raw cane sugar within the tariff quota approved by the Order of the Ministry of Economy of Ukraine, issued on 20.01.2009, Ref. No. 15.

Tariff quotas on imports are also determined by bilateral agreements, are carried out under the mechanism of ‘first come – first served’, control over the distribution of quotas is carried out in accordance with the Procedure for control over the distribution of tariff quotas approved by the Order of the Ministry of Finance of Ukraine issued on 11 December 2014, Ref. No. 1203.

The following are the tariff quotas for imports in accordance with:

- 1) Tariff quota for imports into Ukraine under the EU-Ukraine Association Agreement

Group title	Codes of goods	Quota, kg
Pork meat	020311, 020312, 020319, 020321, 020322, 020329	10000000
Pork meat (optional)	02031110, 02031219, 02031911, 02031915, 02031959, 02032110, 02032219, 02032911, 02032915, 02032959	10000000
Poultry meat and semi-finished products of poultry meat	020712, 020714, 02072610, 02072620, 02072630, 02072640, 02072650, 02072660, 02072670, 02072680, 02072699, 020727, 02074431, 02074441, 02074461, 02074481, 02074499, 02074531, 02074541, 02074561, 02074571, 02074581, 02074595, 02074599, 02075431, 02075441, 02075461, 02075481, 02075499, 02075531, 02075541, 02075561, 02075571, 02075581, 02075595, 02075599, 02076031, 02076041, 02076061, 02076081, 02076091, 02076099	10000000
Poultry meat and semi-finished products of poultry meat (optional)	020712	10000000
Sugar	170112, 170113, 170114, 170191, 170199	40000000

2) Tariff quota for imports into Ukraine of goods under the Free Trade Agreement between Ukraine and Canada

Group title	Codes of goods	Quota, kg
Pork	02032110, 02032190, 02032211, 02032219, 02032290, 02032911, 02032913, 02032915, 02032955, 02032959, 02032990, 020641, 020649, 02091011	17143000

3) Tariff quota for imports into Ukraine of goods under the Political, Free Trade and Strategic Partnership Agreement between the United Kingdom of Great Britain and Northern Ireland and Ukraine

Group title	Codes of goods	Quota, kg
Pork meat	020311, 020312, 020319, 020321, 020322, 020329	1700000
Pork meat (optional)	02031110, 02031219, 02031911, 02031915, 02031959, 02032110, 02032219, 02032911, 02032915, 02032959	1700000

Poultry meat and semi-finished products of poultry meat	020712, 020714, 02072610, 02072620, 02072630, 02072640, 02072650, 02072660, 02072670, 02072680, 02072699, 020727, 02074431, 02074441, 02074461, 02074481, 02074499, 02074531, 02074541, 02074561, 02074571, 02074581, 02074595, 02074599, 02075431, 02075441, 02075461, 02075481, 02075499, 02075531, 02075541, 02075561, 02075571, 02075581, 02075595, 02075599, 02076031, 02076041, 02076061, 02076081, 02076091, 02076099	2000000
Poultry meat and semi-finished products of poultry meat (optional)	020712	2000000
Sugar	170112, 170113, 170114, 170191, 170199	6668000

Online information about the volume and current balance of tariff quotas for imports of goods from individual countries, as well as customs and tariff regulation for each code of the Ukrainian Customs Commodity Classification Code System (UKTZED) can be found at: <https://cabinet.customs.gov.ua/etqlist>.

c) The management and control of production subsidy schemes describing the procedure for registration of farmers' plots in the national farm register, procedure for lodging applications, data to be submitted, administrative and on-the-spot controls to be performed and sanctions to be applied.

1. Animal husbandry:

➤ Mechanism for providing support to development of animal husbandry and processing of agricultural products defined by resolution of the Cabinet of Ministers of Ukraine dated 07 February 2018 No. 107 "On approval of the procedure for using the funds provided for in the state budget for state support for the development of animal husbandry and processing of agricultural products" (as amended by the Resolution Cabinet of Ministers of Ukraine dated 12 May 2021 No. 517).

2. Crop growing:

➤ The mechanism for providing state support to agricultural producers by allocating budget subsidies per unit of cultivated land is defined by the Resolution of the Cabinet of Ministers of Ukraine No. 886 of 11 August 2021 "On approval of the Procedure for using funds provided in the state budget for state support of agricultural producers by allocating budget subsidies per unit of cultivated land".

➤ The mechanism for providing state support to potato producers is defined by The Resolution of the Cabinet of Ministers of Ukraine No. 1008 of 22 September 2021 "On approval of the procedure for using funds provided in the state budget for state support of potato producers".

➤ The mechanism of compensation for losses from damage to agricultural crops due to man-made and natural emergencies is defined by Resolution of the Cabinet of Ministers of Ukraine No. 885 of 11 August 2021 "On approval of the procedure for using funds provided in the state budget to compensate for losses from damage to agricultural crops due to man-made and natural emergencies".

3. Horticulture:

➤ The mechanism for supporting the development of horticulture, viticulture and hop growing is defined by Resolution of the Cabinet of Ministers of Ukraine No. 587 of 15 July 2005 "On approval of the procedure for using funds provided in the state budget for the development of viticulture, horticulture and hop growing".

4. Support for farming:

➤ The mechanism for providing support to farming is defined by Resolution of the Cabinet of Ministers of Ukraine No. 106 of 07 February 2018 (as amended) "On approval of the procedure for using funds provided in the state budget to provide financial support for the development of farms".

5. Agricultural machinery:

➤ The mechanism for providing support for reducing the cost of agricultural machinery and equipment of domestic production is defined by the Resolution of the Cabinet of Ministers of Ukraine No. 130 of 01 March 2017 "On approval of the procedure for using funds provided in the state budget for partial compensation of the cost of agricultural machinery and equipment of domestic production".

6. Irrigation

➤ The mechanism for providing state support to agricultural producers engaged in agricultural activities on agricultural land with the use of hydrotechnical land reclamation and the procedure for submitting documents are defined in the Resolution of the Cabinet of Ministers of Ukraine of 11 October 2021 No. 1070 "On approval of the procedure for using funds provided in the state budget for providing state support to agricultural producers using reclaimed land".

Example of an algorithm for receiving a subsidy:

Step 1.	Prepare documents for receiving a subsidy (defined in mentioned resolutions of the Cabinet of Ministers of Ukraine).
Step 2.	Submit documents before a certain deadline of the current year
Step 3.	Get budget funds to accounts opened with the bank

Producers of agricultural products registered in the State Agrarian Register (SAR) are entitled to receive state support on the basis of information contained in the SAR - a service system available to all producers of agricultural products. In particular, an agricultural producer acquires the right to receive state support, support from local budgets, international technical assistance or other assistance to agricultural producers not prohibited by law. The list of information in DAR on support includes:

- 1) information on the criteria for receiving support by producers of agricultural products;
- 2) information on the documents that agricultural producers are obliged to submit in order to receive support;
- 3) information on the support actually received by producers of agricultural products, in particular, information on submitted applications and the amount of state aid received by type;
- 4) other information necessary for the administration, consideration and processing of applications for support to agricultural producers, which are administered through the Register.

Information about the land plots of the agricultural producer (cadastral number, area, purpose, real right to the land plot, date of occurrence and validity of the real right to the land plot, the presence of encumbrances of such right and other information contained in state databases) is uploaded to the SAR automatically.

If the regulatory authorities establish the fact of illegal receipt and/or misuse of budget funds, the agricultural producer returns the received budget funds and is deprived within three years from the date of detection of such a violation of the right to receive state support.

Control over the targeted use of funds is carried out by state financial control bodies. The Accounting Chamber carries out financial and performance audits on the provision of state aid to economic entities at the expense of the state budget. Based on the results of the state financial control (audit) measures, a report is drawn up, the components of which are an act (if any), conclusions and recommendations.

7. Where individual measures are applied to more than one product category, please detail the information under each product concerned. The description should include the following information: (i) name of the policy measure with a description of the scheme and the objective and (ii) eligibility criteria for the measure and the funding allocated

(a) Arable crops, specialized crops and products

- *Cereals;*
- *Oilseeds and protein crops;*
- *Rice;*
- *Sugar;*
- *Dried fodder, seeds, hops;*
- *Olive oil and table olives;*
- *Flax and hemp;*
- *Fruits and vegetables;*
- *Processed fruits and vegetables products;*
- *Bananas;*
- *Wine;*
- *Live plants and floriculture products;*
- *Raw tobacco;*
- *Ethyl alcohol of agricultural origin;*
- *Apiculture products;*
- *Silkworms;*

– ***Cotton.***

Horticulture, wine growing, and hop growing

For the purposes of developing horticulture, wine growing, and hop growing, the Government of Ukraine resumed budget support of these industries in 2021, which enabled producers to expand plantation areas and increase construction of infrastructure facilities.

Funding:

The total amount of the support of the mentioned industries between 2017 and 2021 amounted to UAH 1,892.8 million.

The government support has been funded from the state budgets of Ukraine since 2017.

66 businesses were reimbursed for costs in the amount of UAH 115.6 million in the year of 2017 including the costs of:

- Plantation development: UAH 61.7 million;
- Procurement of specialized mechanisms and machinery: UAH 33.2 million;
- Procurement of commercial fruit handling lines: UAH 7.1 million;
- Construction of atmosphere controlled cold-storage facilities: UAH 13.5 million.

In 2018, 167 businesses were reimbursed for the costs of procuring planting materials in the amount of UAH 260.4 million (3,671 ha of fruit and soft fruit plantations and 229 ha of vineyards); nine businesses were reimbursed for the costs of constructing atmosphere controlled cold-storage facilities in the amount of UAH 184.2 million (the storage capacity: 14,000 tons); and UAH 3.3 million were allocated to three businesses for paying off short-term debts by court decisions.

In 2019, UAH 279,999.8 was channelled to 256 businesses for partial reimbursement of planting materials, while UAH 120,000,000 was allocated to 12 businesses for partial reimbursement for construction of atmosphere controlled cold-storage facilities and procurement of commercial fruit handling lines. UAH 28.825 million was allocated to reimburse the costs of mechanisms for carrying out technological operations in hop production (hop granulation lines and equipment) and fruit sublimation drying equipment.

In 2020, 206 businesses received UAH 290.04 million; more specifically, 155 businesses received UAH 165.4 million for seedlings, UAH 16.7 million for fruit frames, and UAH 17.8 million for micro-irrigation systems; 51 businesses received UAH 90 million for procuring produce sorting lines and constructing cold-storage facilities.

In 2021, UAH 512 million was allocated to businesses for partial reimbursement of costs incurred.

Horticulture businesses developed 14,000 ha of fruit and soft fruit plantations using latest technologies over the last five years (from 2017 through 2021). Currently, newly-planted orchards and berry plantations which are operated with the government support, constitute a basis of industrial production of fruit and berries.

Potato Production

In the year of 2021, the Government of Ukraine initiated the budget support of the potato production industry so that the country could increase the potato production and upscale development of infrastructure facilities.

Funding:

As part of the industry support UAH 53.215 million was allocated to businesses to reimburse them for up to 50 per cent (excluding the value-added tax) of the construction costs of new cold-storage facilities to store own produce (potato warehouses) and facilities for primary processing of own potato which have been already constructed and put into operation.

In view of the substantial volume of potato and vegetable production in the territory of Ukraine, there is a need in constructing modern atmosphere controlled cold-storage facilities to store potato and vegetables which would ensure proper long-term storage of grown produce and subsequent processing/handling thereof, namely: pre-packing (shock-freezing) – packaging – transportation to mass consumption sites (cities with a million-plus population and regional centres). The surplus of end produce could be exported to other countries with allowance for specifics of consumption at the local and regional levels.

Construction of modern agrarian infrastructure facilities in the form of logistic centres with a well-developed logistic chain (with regard to potato and vegetable storage facilities) will enable Ukraine to fully satisfy the domestic demand with high-quality vegetable produce and create a potential in exporting.

Buckwheat

In 2021, state support was provided to agricultural producers by allocating budget subsidies per unit of cultivated land on which buckwheat was grown.

Funding:

Subsidies are provided to recipients on a non-refundable basis within the budget allocations provided for in the state budget for the current year, per hectare of cultivated land on which buckwheat was grown (excluding post-harvest crops), up to 5,000 hryvnias per hectare, but not more than 300 hectares of cultivated land by one recipient.

Areas of state support such as support for niche crops (potatoes, subsidies for growing buckwheat) and support for the development of reclaimed land can be attributed to the new state support programs. More traditional are the programs of state support for the development of livestock and processing of agricultural products, horticulture, viticulture and hop development, financial support for the development of farms, partial compensation for the cost of agricultural machinery of domestic production, cheaper loans.

(b) Animal products

- ***Beef and veal;***
- ***Milk and milk products;***
- ***Pigmeat;***
- ***Sheepmeat and goatmeat;***
- ***Eggs;***
- ***Poultrymeat.***

As the key budget holder, the Ministry of Agrarian Policy and Food of Ukraine provides financial support to producers in the animal farming sector. Information on the government support in the animal farming sector by areas of production for 2016-2021 is shown in Attachment 3 and Section 14a.

8. For i) Beef and veal, ii) Milk and milk products; iii) Pigmeat, iv) Sheepmeat and goatmeat; v) Poultrymeat, vi) Eggs; vii) Apiculture; viii) Fruit and vegetables; ix) Wine; x) Floriculture; xi) Olive oil and table olives; xii) Sugar beet - please provide a description of:

(a) The existing regulatory requirements and the arrangements for their administration and enforcement including legislative basis (name and reference of relevant legal act); objectives and general description of the legislation; degree of approximation to EU legislation; participation in international standard schemes; description of administrative and enforcement arrangements (including resources, human, financial, and infrastructure, and if possible the administrative organisational chart).

i-iv Animal Products (Milk, Meat, Eggs)

Law of Ukraine No. 771/97-BP dated 23 December 1997 “On Major Principles and Requirements with Regard to Food Safety and Quality” governs relations among executive authorities, food market operators, and consumers of food products. It defines a process of ensuring safety and selected indicators of the quality of food products which are produced, circulated, imported (sent) into the customs territory of Ukraine and/or exported (sent) from it.

Law of Ukraine No. 1870-IV dated 24 June 2004 “On Milk and Dairy Products” defines legal and organizational framework for ensuring milk and dairy products quality and safety for human life, public and environment health at the stages production, transportation, processing, storage, distribution, importing to and exporting from the customs territory of Ukraine.

Order of the Ministry of Health of Ukraine No. 694 dated 06 August 2013 (as registered with the Ministry of Justice of Ukraine on 13 August 2013 under No. 1379/23911) “On Approving Hygienical Requirements to Poultry and its Selected Quality Indicators”. These Hygienical Requirements apply to all facilities in Ukraine where poultry is produced and/or distributed at the domestic markets.

Order of the Ministry of Agrarian Policy and Food of Ukraine No. 587 dated 01 November 2011 (as registered with the Ministry of Justice of Ukraine on 17 November 2011 under No. 1317/20055) “On Approving the Instruction on Trade Analysis and Labelling of Meat” (as amended). This Instruction applies to all facilities where livestock, poultry, rabbits, and nutrias are slaughtered.

Besides, the following standards are valid/applied in Ukraine:

(1) For beef and veal:

- DSTU 7706:2015 Pre-packed meat. Technical specifications;
- DSTU 6030:2008 Meat. Beef and veal in carcasses, half-carcasses, and quarter-carcasses. Technical specifications;
- DSTU 4426:2005 Beef pieces. Technical specifications;
- DSTU 7050:2009 Tinned meat. Liver pates. General technical specifications;
- DSTU 4589:2006 Semi-finished meat products from complex parting of beef by culinary designated purposes. Technical conditions;

–DSTU 3938-99 Meat industry. Products of Livestock Slaughtering. Terms and definition etc.

(2) For milk and dairy products:

–DSTU 2661:2010 Drinking cow milk. General technical specifications;

–DSTU 3662:2018 Cow milk as raw material. Technical specifications;

–DSTU 4324:2004 Dairy industry. Production of tinned dairy products. Terms and definition of notions;

–DSTU 4273:2015 Milk and cream powder. General technical conditions;

–DSTU 4541:2006 Dairy products as baby food. Sterilized cream for babies. Technical specifications etc.

(3) For pigmeat:

–DSTU 4668:2006 Boiled, smoked-and-boiled, smoked-and-baked, baked, roasted, and raw smoked pork products. General technical conditions;

–DSTU 4590:2006 Semi-finished natural meat products from complex parting of pork for culinary designated purposes. Technical specifications;

–DSTU 7351:2013 Tinned meat products. Salted. General technical specifications;

–DSTU 4670:2006 Boiled and smoked-and-boiled products from beef and pork. General technical specifications etc.

(4) For sheep and goat meat:

–DSTU 4671:2006 Boiled, smoked-and-boiled, and raw smoked products from beef and mutton.

(5) For poultry:

–DSTU 7054:2009 Tinned minced poultry. General technical specifications;

–DSTU 4532:2006 Boiled-and-smoked sausages from poultry. General technical specifications;

–DSTU 4529:2006 Boiled sausages from poultry and rabbit meat. General technical specifications;

–DSTU 4530:2006 Semi-smoked sausages from poultry meat. General technical specifications;

–DSTU 4531:2006 Boiled and smoked-and-boiled poultry products. General technical specifications etc.

(6) For eggs

–DSTU 5028:2008 Edible chicken eggs. Technical specifications.

vii Beekeeping

Law of Ukraine No. 1492-III dated 22.02.2000 “On Beekeeping” governs relations with regard to breeding, use, and protection of bees; production, procurement, and processing of beekeeping products; efficient use of bees for the purpose of pollinating agricultural entomophilous plant and other pollinated plants; creation of proper conditions for increasing productivity of bees and agricultural crops; and protection of rights and interests of individuals and legal entities engaged in beekeeping.

Law of Ukraine No. 2498-XII dated 26.06.1992 “On Veterinary Medicine”. The Instruction on Preventing and Eliminating Diseases of Bees was approved by Order of the Main State Inspector of Veterinary Medicine of Ukraine No. 9 dated 30 January 2001 (as registered with the Ministry of Justice of Ukraine on 12 February 2001 under No. 131/5322).

The following documents were approved by Order of the Ministry of Economy No. 338 dated 19 February 2021 (as registered with the Ministry of Justice of Ukraine on 04 March 2021 under No. 280/35902) “On Some Issues in the Sphere of Beekeeping”: Plan for Regionalization by Breeds; Regulation on Issuing the Veterinary-and-Sanitary Passport of a Bee Farm; Regulation on Registering a Bee Farm; Instruction on Preventing and Establishing the Fact of Poisoning Bees with Plant Protection Agents.

Besides, there is the following standard in effect in Ukraine: DSTU 4497:2005 Natural Honey.

vii Vegetables (Potato)

Adaptation of the EU Directives with regard to production, quality standards, and classification of seed potato is one of major tasks of approximation of the Ukrainian legislation to the EU Acquis and fulfilment of Ukraine's commitments under WTO and the EU-Ukraine Association Agreement.

Legal regulation in the sphere of production and certification of seed potatoes in the EU member states is based on UNECE Standard S-1, which concerns marketing and commercial quality control of seed potatoes, the EU Directives (taking into account the requirements of the domestic and external potato market), and national regulations.

The Ukrainian legislative and regulatory frameworks in the sphere of production and circulation of seed potatoes comprise:

- Law of Ukraine “On Seeds and Planting Materials”;
- Law of Ukraine “On Protecting the Rights to Plant Varieties”;
- Law of Ukraine “On Plants Quarantine” No. 34 dated 1993;
- Decree of the Cabinet of Ministers of Ukraine No. 97 dated 21 February 2017 “On Approving the Regulation on Certification of Seeds and Planting Materials”;
- Order of the Ministry of Agrarian Policy and Food No. 348 dated 10 July 2017 “On Labelling and Packaging of Seed Lots and Label Forms”;
- National Standards of Ukraine for Seed Potatoes include:
 - DSTU 4013-2001 “Variety and Planting Properties of Seed Potatoes. Technical Specifications”;
 - DSTU 4014-2001 “Seed Potatoes. Methodology for Determining Planting Properties”;
 - The quality of pre-basic improved seed potatoes is checked according to DSTU 8243:2015 “Seed Potatoes: Improved Input Material. Technical Specifications”.

ix Wine

Today, pursuant to the Law of Ukraine “On Grapes and Grape Wine”, Ukrainian wines and cognacs are produced in accordance with existing rules for production and storage of such wines, rules for production and storage of sparkling and champagne wines, rules for production of Ukrainian cognacs, rules for production of wine products as well as technological instruction manuals which are approved by the central executive body responsible for development of governmental agrarian and agricultural policies.

Wine products which are sold in Ukraine are marked according to the Law of Ukraine “On Information for Consumers on Food Products” taking into account the specifics set forth by the Law of Ukraine “On State Regulation of Production and Circulation of Ethyl, Cognac, and Fruit Alcohol, Alcoholic Beverages, Tobacco Products, Liquids Used in E-Cigarettes, and Fuel”.

The Draft Law of Ukraine “On Amending the Law of Ukraine “On Grapes and Grape Wine”” (registration No. 6010 dated 08 September 2021) was developed for the purposes of bringing provisions of the Ukrainian sectoral legislation in compliance with requirements of international rules for production of wine products and implementing provisions of Regulations (EU) No. 1308/2013, No. 251/2014, No. 2019/33, No. 2018/274 and Commission Delegated Regulation (EU) 2018/273 with regard to enological practices, marking and protection of geographical indications of wine products, and controls in the sphere of viticulture and wine production as well as for the purposes of simplification of doing business and deregulation in the viticulture and wine production industry, creation of favourable conditions for development of producers of all ownership forms and production of high-quality produce with special properties conditioned by environmental conditions of a territory of origin.

Adoption of this law will help Ukraine: to implement international enological practices; to ensure proper marking and protection of geographical indications of wine products; to exercise state controls in the sphere of viticulture and wine production; to simplify doing business and de-regulate the viticulture and wine production industry; to create proper conditions for operating a unified state information system which will contain data on grapes and wine producers and vineyards, mandatory declarations, and other data on wine products as envisaged by this law; to create favourable conditions for development of producers of all ownership forms and production of high-quality produces with special properties which are conditioned by environmental condition of a territory of origin.

Ukraine unifies and adapts the national legislation to the EU Acquis with regard to labelling, production, and marketing of selected food products by means of the following documents:

1. Order of the Ministry of Agrarian Policy and Food of Ukraine No. 330 dated 19 June 2019 “On Approving Requirements to Honey” (as registered with the Ministry of Justice of Ukraine on 04 July 2019 under No. 725/33696) implemented Council Directive 2001/110/EC of 20 December 2001 relating to honey in the Ukrainian legislation. This had a positive impact on the export potential of Ukrainian honey producers;

2. Order of the Ministry for Development of Economy, Trade and Agriculture of Ukraine No. 741 dated 14 April 2021 “On Approving Hygienical Requirements to Production and Circulation of Natural Mineral and Spring Waters” (as registered with the Ministry of Justice of Ukraine on 19 May 2021 under No. 657/36279). It intends to prevent food poisoning and spread of contagious diseases, which may be caused by violation of hygienic requirements during production, storage and marketing of natural mineral and spring waters as well as to enhance the current legislation in the sphere of food safety and quality and harmonize it with the EU Acquis, namely, with the Directive 2009/54/EC of the European Parliament and of the Council of 18 June 2009 on the exploitation and marketing of natural mineral waters;

3. Order of the Ministry of Agrarian Policy and Food of Ukraine No. 157 dated 13 April 2016 “On Approving Requirements to Cocoa and Chocolate Products” (as registered with the Ministry of Justice of Ukraine on 06 May 2016 under No. 688/28818). It introduces requirements to cocoa and chocolate products, which are mandatory for all producers, and implements in the national legislation provisions of Directive 2000/36/EC of the European Parliament and of the Council of 23 June 2000 relating to cocoa and chocolate products intended for human consumption.

Ukraine continues working on implementation of the EU Acquis in the sphere of food safety and quality. Specifically, the following regulations have been drafted as of now:

1. Order of the Ministry of Agrarian Policy and Food of Ukraine “On Approving Requirements to Fruit Juices and Certain Similar Products”. It is intended to implement in the Ukrainian legislation Council Directive 2001/112/EC of 20 December 2001 relating to fruit juices and certain similar products intended for human consumption. This will have a positive impact on the export potential of national juice producers;

2. Order of the Ministry of Agrarian Policy and Food of Ukraine “On Approving Requirements to Coffee Extracts and Chicory Extracts”. It harmonizes national requirements to labelling coffee and chicory extracts with requirements set forth by Directive 1999/4/EC of the European Parliament and of the Council of 22 February 1999 relating to coffee extracts and chicory extracts.

(b) Agricultural marketing requirements and standards (grading, sizing, mandatory/voluntary standards), labelling requirements (especially origin labelling) and the checks performed on imports/exports to assess compliance with these requirements (e.g. procedures, certificates, sanctions).

In furtherance of Item 53 of the Comprehensive Strategy for Implementing Chapter VI “Sanitary and Phytosanitary Measures”) of Title IV “Trade and Trade-Related Matters”) of the Association Agreements between the European Union and its Member States, of the one part, and Ukraine, of the other part, which was approved by Instruction of the Cabinet of Ministers of Ukraine No.228 dated 24 February 2016, as well as Items 218, 281, 1221 of the Action Plan on Implementation of the Association Agreements between the European Union and its Member States, of the one part, and Ukraine, of the other part, as approved by the Decree of the Cabinet of Ministers of Ukraine No.1106 dated 25 October 2017, the Ministry of Economy of Ukraine approved the Regulation on and Special Requirements to Labelling of Food Products for which specification of the country or place of origin is mandatory. Relevant Order No. 679 dated 01 April 2021 was registered with the Ministry of Justice of Ukraine on 06 May 2021 under No.601/36223. The said regulation sets forth the rules for specification of the “country of origin” or “place of origin” in labelling of:

- Fresh or chilled beef;
- Frozen beef;
- Fresh, chilled, and frozen pork;
- Fresh, chilled, and frozen mutton and goat meat;
- Fresh, chilled or frozen edible cattle offal;
- Edible poultry meat and offal;
- Honey;
- Virgin olive oil and extra virgin olive oil.

Labeling of wine products sold in Ukraine is carried out in accordance with the Law of Ukraine “On information for consumers regarding food products”, taking into account the specifics established by the Law of Ukraine “On state regulation of the production and circulation of ethyl, cognac and fruit alcohol, alcoholic beverages, tobacco products, liquids used in electronic cigarettes, and fuel”.

Labeling of wine products, including cider and perry (without adding alcohol), fermented beverages obtained exclusively as a result of natural fermentation of fruit, berry and fruit and berry juices, with an alcohol content of not more than 8.5 percent by volume units (without adding alcohol),

which are sold in Ukraine, is carried out in accordance with the Law of Ukraine "On information for consumers regarding food products", taking into account the specifics established by this law. Labeling of wine products, including cider and perry (without adding alcohol), fermented beverages obtained exclusively as a result of natural fermentation of fruit, berry and fruit and berry juices, with an alcohol content of not more than 8.5 percent by volume units (without adding alcohol), which are sold in Ukraine, must contain the following information:

- name of the state;
- name and location of the food market operator responsible for providing information about the alcoholic beverage, and for imported alcoholic beverages - the name and location of the importer (in case of a change in the name of the manufacturer due to a change in the type of joint-stock company or in connection with the transformation of the joint-stock company into another business company, the manufacturer has the right to indicate on the label its previous name within 18 months from the date of the change in its name due to a change in the type of joint-stock company or in connection with the transformation of the joint-stock company into another business company);
- sign for goods and services;
- product name;
- volume;
- alcohol content (%Vol.);
- sugar content (except dry wines, champagne, sparkling wine and cognac) (%WT);
- the presence of flavorings and colorants (when using them).

The bar code must be applied to the visible side of the label, counter label, or bottle (other packaging). The date of manufacture of the product must be indicated on the visible side of the label, or counter label, or cork, or bottle (other packaging).

The aging period for vintage wines and the designation "vintage", the age of cognac spirits for vintage cognacs and cognacs of special names are given on the colliette.

Bottles with collectible wines and cognacs are marked with additional labels indicating "collectible, additionally aged in the collection of ___ years".

A colliette is pasted on the neck of a bottle of collectible wine indicating the year of harvest of the grapes from which the wine is made.

Counter-label or additional label shall be on the bottle with vermouth, which provides data on the main composition of the components of the drink and recommendations on the use of the drink agreed with the central executive body implementing state health policy.

Bottles with all types of wine products can be marked with counter-labels that contain additional information about drinks.

Examination (verification) of wine and wine materials

The State Enterprise "State Center for Certification and Examination of Agricultural Products" (SE) is the authorized body for certification of wine and wine products and issuance of VII certificates for export to European Union countries.

The SE also has an accredited testing laboratory, which is authorized by the EU's Directorate-General for Agriculture and Rural Development to conduct research on wine and wine materials.

The full certification procedure is as follows:

1. Submission of an application for research and certification.
2. Sampling for research. Samples are taken in the presence of a certified employee of the BF in the amount of 4 bottles of 0.75 liters from 1 batch of wine and / or wine material.
3. Examination of samples. Examination includes the following studies:
 - Transparency;
 - Color;
 - Bouquet;
 - Taste;
 - Total alcohol strength;
 - Volume fraction of ethyl alcohol;
 - Mass concentration of sugar;
 - Mass concentration of titrated acids;
 - Mass concentration of volatile acids;
 - Mass concentration of sulfuric acid, free / total;
 - Pressure of carbon dioxide;
 - Mass concentration of iron;
 - Mass concentration of citric acid;
 - Relative density;
 - Mass concentration of the extract (total / reduced);
 - Malvidin-3,5-diglucoside - for red and rosé wines;
 - Ochratoxin A;
 - Mass fraction of lead.

In addition, other examinations may be performed at the request of the customer.

Issuance of certificate VII.

The VII certificate consists of two parts. The first part of the certificate contains general information about the manufacturer, customer and batch data (batch number, date of manufacture, quantity, etc.). The second part is the results of laboratory tests conducted for each batch of wine and confirm the compliance of wine with quality requirements.

9. Are there any producer groups or producer organizations regulated in the country? Are there any measures aimed at encouraging the organization of different sectors (for example fruit and vegetable, wine, etc.)?

National legislation provides for the right of agricultural producers and other business entities to create voluntary professional associations, in the form of associations, corporations, consortia, concerns, and other associations of enterprises provided for by the legislation.

In Ukraine, the current Law of Ukraine “On cooperation” of 10.07.2003 No. 1087-IV and the Law of Ukraine “On agricultural cooperation” of 21.07.2020 No. 819-IX define the legal, organizational, economic and social foundations of the agricultural cooperation, the specifics of the formation and operation of agricultural cooperatives, their associations.

In order to protect and represent their interests the agricultural market participants can create public associations (according to the Law of Ukraine “On Public Associations”), which are formed from the agricultural producers, value added chain participants and by professional characteristic. The main motivating factor for creating such voluntary associations is the protection of the interests of the participants of such an association, the opportunity to exchange business experience and represent professional interests. In Ukraine, such associations can be created according to the direction of activity (sector), or combine the interests of agro-industrial companies, or in line with organizational and legal characteristic (associations of farmers, cooperatives). Individual associations created on a professional basis have self-regulatory functions. The Ministry of Agrarian Policy and Food of Ukraine actively cooperates with local professional associations in the agricultural sector in order to take into account their interests in the development and implementation of measures to stimulate the development of agriculture and agribusiness in general, and informs the public about it on its official website: <https://minagro.gov.ua/gromadyanam>.

10. Do you have unfair trading practices rules that apply in the business-to-business context and that aim to protect farmers?

The Law of Ukraine “On protection from unfair competition” is the main law setting the legal framework for protection of the economic entities and consumers (including farmers) from unfair competition. The law is aimed at establishing, developing and ensuring trade and other fair competitive practices in the implementation of economic activities in the conditions of market relations.

The Law of Ukraine “On protection of economic competition” also applies, which defines the legal framework for supporting and protecting economic competition, restricting monopoly in economic activity. This law is aimed at ensuring effective functioning of Ukrainian economy based on the development of competitive relations. In addition, there is an Economic Code of Ukraine, which defines the basic principles of economic activities in Ukraine and regulates economic relations that arise in the process of organizing and carrying out economic activities between business entities and other participants in the field of economic activities.

Antimonopoly Committee of Ukraine is the main state body providing state protection of competition in business activities and in the field of public procurement. Its activities are regulated by the Law of Ukraine “On the antimonopoly committee”.

The provisions and rules of the above-mentioned legislative acts apply to all business entities in Ukraine and are also aimed at protecting farmers from unfair competition.

Ukrainian legislation, in particular the Law of Ukraine “On protection from unfair competition” distinguishes the following main types of unfair competition:

- unlawful use of the business reputation of a business entity;
- setting barriers for legal entities in the process of competition and achieving unlawful advantages in competition;

- unlawful collection, disclosure and use of trade secrets.

Thus, the following types of liability are envisaged for the violation of the rules of fair competition:

- imposition of a fine for unfair competition;
- compensation for damages;
- withdrawal of goods with an improperly used designation and copies of products of another business entity;
- refutation of false, inaccurate, or incomplete information.

Farmers whose rights are violated by actions defined by the Law of Ukraine "On protection from unfair competition" as unfair competition can apply to the Antimonopoly Committee of Ukraine and its territorial branches for protection of their rights within six months from the date when they learned or should have learned about the violation of their rights.

After that, the Antimonopoly Committee of Ukraine in cases of unfair competition may make the following decisions, which are binding:

- recognition of a fact unfair competition;
- termination of unfair competition;
- official refutation at the expense of the violator of false, inaccurate or incomplete information spread by him; imposition of fines;
- closure of proceedings on the case.

The Antimonopoly Committee of Ukraine will publish decisions on the results of consideration of unfair competition cases on the official website of the Antimonopoly Committee of Ukraine within 10 working days from the date of their adoption. The decision is subject to full disclosure, except for information that is defined as the information with restricted access. Information with restricted access should be excluded or changed in another way that ensures sufficient protection and sufficient transparency regarding the justification of the decision by the Antimonopoly Committee of Ukraine.

11. Do you have exceptions from competition law that would benefit farmers or their organisations?

The Law of Ukraine “On state aid to business entities” of 01 July 2014 No. 1555-VII establishes the legal framework for monitoring of the state aid to business entities, monitoring the compatibility of such aid with the competition. This law is aimed at ensuring the protection and development of competition, increasing transparency in the functioning of the state aid system and compliance with Ukraine's international obligations in the field of state aid.

State aid to business entities – support provided in any form to business entities at the expense of state or local resources, which distorts or threatens to distort economic competition, creating advantages for the production of certain types of goods or the implementation of certain types of economic activities.

This law does not apply to the aid for agricultural production and fishery.

12. Are there any kind of reporting requirements (on prices and volumes of agricultural products) for operators along the food supply chain to increase market transparency?

The State Statistics Service of Ukraine sets reporting requirements and publishes the results of performance indicators monitoring, thereby providing all participants of the agricultural market with free and equal access to information.

The State Statistics Service is using the following sources of information:

data provided in the Form No. 21- general (annual) “Report on the sales of agricultural products” (hereinafter referred to as Form No. 21 - general (annual));

data provided in the Form No. 21-general (monthly) “Report on the sales of agricultural products” (hereinafter referred to as Form No. 21 - general (monthly));

aggregated data of the State Statistics Service on agricultural activities of the population in rural areas in line with the Form No. 01-SGN “Standard interview questionnaire” on cultivated area, data from the Form No. 02-SGN “Monthly interview questionnaire” on the number of livestock, production volumes and sales of agricultural products in rural households;

aggregated data of the State Statistics Service on the areas, gross output and yields of agricultural crops in line with the Form No. 4-SG (Annual) “Report on cultivated areas under agricultural crops” regarding cultivated areas, and in line with the Form No. 29-SG (Annual) “Report on areas and gross output of agricultural crops, fruits, berries and grapes” regarding indicators that characterize the harvested acreage and gross output of agricultural crops in households;

aggregated data of the State Statistics Service on animal production, livestock and feed provision for them according to the forms No. 24-sg (annual) “Report on animal production, livestock and feed provision for them”, No. 24-sg (monthly) “Report on animal production and livestock” regarding indicators that characterize the livestock, the volume of animal production in households.

The State Statistics Service also accumulates information on the import and export of agricultural products in Ukraine.

In addition, village, settlement, city councils of territorial communities (amalgamated territorial communities), on the territory of which rural settlements are located, submit forms of State statistical observation No. 6-Village Council (Annual) “Report on rural households’ register” (Order of the State Statistics Service of Ukraine dated 05 October 2017 No. 262, registered with the Ministry of Justice of Ukraine on 27 October 2017 for No. 1316/31184). The report contains data on the number of rural households, including those having land plots for private subsidiary farming; areas of land in private use of rural households, including those having land plots for private subsidiary farming, by their intended use; the number of livestock in the rural households on the territory of the local council.

Also, in order to collect and publish reporting information, the State Service of Ukraine on Food Safety and Consumer Protection (SSUFSCP) maintains the following registers:

State register of market operators’ facilities - is maintained for the purpose of registering facilities used at any stage of production and/or circulation of food products and does not require obtaining an operational permit.

Register of approved export facilities - includes information on the food market operators intending to export food products to the countries requiring confirmation, by the central executive bodies implementing food safety and quality policy, of the compliance of food production process

and/or circulation with the destination country legislation, which require approval of their export facilities.

Register of economic entities engaged in production and labeling of wood packaging material - production and labeling of wood packaging material on the territory of Ukraine is carried out only by the entities included in the National register of economic entities engaged in production and labeling of wood packaging material.

Register of declarations of compliance of facilities and equipment of small wine production with the requirements of the legislation - to obtain a license for the production of alcoholic beverages, small producers of wine products shall submit an application for registration of the declaration of compliance of facilities and equipment of small wine production with the requirements of the legislation to the territorial body of the SSUFSCP and be included in the relevant register.

Register of genetically modified organisms' sources of feed, feed additives and veterinary preparations containing such organisms or obtained with their use - a specialized list of GMOs allowed for use as food and/or feed, and/or their sources on the basis of international rules and criteria of assessment of safety for human and animal health.

List of registered veterinary drugs, feed additives, ready-made feed and premixes -registration in this list allows business entities to produce, import (transfer) to the customs territory of Ukraine, circulate and use ready-made feed, premixes and feed additives.

Register of operators of industrial animal farming facilities - the register contains information about market operators engaged in industrial animal farming, as well as the number and type of livestock.

Register of countries and facilities from which the import (shipment) of products to the customs territory of Ukraine is allowed - an exporting country is entered into the Register of countries and facilities from which the import (shipment) of products to the customs territory of Ukraine is allowed if an equivalency agreement has been concluded with it or if the results of state control carried out by the competent authority in accordance with the legislation confirm compliance (equivalency) of the state control system of the exporting country with the legislation of Ukraine.

List of enterprises of the world inspected by the State Service of Veterinary Medicine of Ukraine, which products are allowed for import.

The Register of veterinary and sanitary apiary passports - a single list of passports of apiaries registered in the territory of Ukraine, which is an electronic register formed by the competent authority and maintained by its territorial bodies using their material and technical base.

The Ministry of Agrarian Policy and Food of Ukraine maintains the following registers:

State Agrarian Register (SAR), which is described in more detail in Paragraph 1 (f). In fact, the largest database of agricultural products and agricultural producers in Ukraine.

In cooperation with the State Enterprise "Agency for animal identification and registration", a unified state register of animals is maintained, which reflects up-to-date information on identified and registered livestock in Ukraine.

The register of livestock breeding entities - state registration of livestock breeding entities is carried out for the purpose of forming information automated databases of breeding (genetic) resources and livestock breeding entities, which are the owners of breeding (genetic) resources or are

business entities that participate in the production, preservation, use, creation, determination of the breeding value of breeding (genetic) resources, trade in breeding (genetic) resources and provide services related to breeding, for: determining measures to improve the selection system in animal husbandry; running selection and breeding activities by breed; assessment of the livestock breeding entities performance related to certain functions in the pedigree livestock farming; organizing system of marketing in livestock breeding; increasing the validity of certification of the breeding (genetic) resources; ensuring control of compliance with the legislation on livestock breeding.

Catalogs of bull inseminators for maintenance of the breeding stock.

Register of breeding achievements in animal husbandry - for the purpose of recording and continuous monitoring of the domestic breeding achievements.

Register of applications for plant varieties - a set of official information about applications for plant varieties submitted for the purpose of state registration of rights to a plant variety, which are stored in paper and electronic form.

State register of patents for plant varieties - contains a set of official information on the state registration of intellectual property rights to a plant variety, which are permanently stored on electronic and paper media.

State register of plant varieties suitable for distribution in Ukraine - official list of plant varieties suitable for distribution in Ukraine.

State register of subjects of seed production and seedling production – a list of subjects of seed production and seedling production that produce seeds and/or planting material for sale in accordance with the requirements of the law of Ukraine “On seeds and planting material”.

Register of certificates for seeds and/or planting material – a list of certificates and information about them.

Register of conformity assessment bodies – a list of conformity assessment bodies and information about them.

Register of certification auditors (agronomist-inspectors) - reflects up-to-date information on the experts, which have the right to determine the varietal qualities of seeds and planting material in the field of seed and seedling production and issue field assessment certificates, take samples and participate in labeling of seeds and planting material batches.

Register of agricultural advisory services - maintaining a unified register of agricultural advisory services.

Register of agricultural consultants and expert advisors - maintaining a single record of agricultural consultants and expert advisors providing advisory services, openness of information about consultants and expert advisors, creating favorable conditions for informatization of the agricultural sector.

The State register of entities operating in line with the legislative requirements in the field of organic production, circulation and labeling of organic products - the official list of entities involved in organic production and/or circulation of organic products in line with the requirements of legislation in the field of organic production, circulation and labeling of organic products, contained in the information database.

State Register of certification bodies in the field of organic production and circulation of organic products (hereinafter referred to as the Register of certification bodies) - the official list of certification bodies that have the right to carry out certification of organic production and/or circulation of organic products, contained in an information database.

The State register of organic seeds and planting material (hereinafter referred to as the Register of organic seeds and planting material) - the official list of organic seeds and planting material suitable for use in accordance with the requirements of legislation in the field of organic production, circulation and labeling of organic products, contained in an information database.

Maintaining of the above-mentioned registers allows to ensure transparency and openness of information along the food supply chain.

Unfortunately, there are no functioning reporting requirements in Ukraine at the moment. At the same time, the State Agrarian Registry system that is in development (is about to be launched) will force agricultural producers to report on the volume of their harvest. The State Agrarian Registry would be the only tool for producers to get the State Support funds and, at the same time will force the agricultural market to the deshadowing, transparency and will sufficiently raise the tax payments from the sector. All above-mentioned positions are foreseen in the Resolution of the Cabinet of Minister of Ukraine on “Functioning and Maintenance of State Agrarian Registry” (<https://zakon.rada.gov.ua/573>).

13. For the wine sector, can you please confirm if there is a vineyard register (identification of vineyard parcels, harvest-production and stock declarations at the level of producers)?

The Ukrainian Vineyard Cadaster, which contains information on zoning of the territory of Ukraine by vineyard zones, areas under vineyards, agro-ecological conditions of cultivation and varietal composition of vineyards, etc., approved by the Ministry of Agrarian Policy and Food of Ukraine on 25 August, 2010. Today this system is under development, its launch is planned as part of the State Agrarian Register (SAR), simultaneously with the launch of SAR. Currently, district administrations / departments of agro-industrial development collect the mentioned information on the ground, after which it will be uploaded to the relevant register.

In accordance with the Procedure for registering grape plantations and maintaining the State Register of vineyards, approved by the Order of the Ministry of Agrarian Policy and Food of Ukraine of 12 August 2014 No. 303, registered with the Ministry of Justice of Ukraine on 08 October 2014 for No. 1211/25988, the Ministry of Agrarian Policy and Food of Ukraine annually registers grape plantations of technical and table varieties with an area of more than 0.5 hectares in farms of all forms of ownership (also mentioned in paragraph 14 b).

At the same time, a draft law of Ukraine “On amendments to the Law of Ukraine “On Grapes and Grape Wine”” (reg. No. 6010 of 08 September 2021) envisages the creation of conditions for the functioning of the unified state information system, which will contain data on grape producers, wine producers and vineyard parcels. Today this system is under development, its launch is planned as part of the State Agrarian Register (SAR), simultaneously with the launch of SAR. Currently, the information is collected by the district offices of the agro-industrial complex on the spot, after which it will be uploaded to the relevant register.

III. DIRECT PAYMENTS TO FARMERS

14. Please describe the direct payments system applied and in particular provide information on the following:

a) Legal basis, their essential elements and objectives, most recent data setting out the budget, number of beneficiaries per scheme, duration and eligibility conditions;

According to the State Statistics Service of Ukraine, as of the last reporting date, more than 73 thousand business entities are engaged in the production of agricultural products in Ukraine, including 49.5 thousand agricultural enterprises.

As of 01 November 2021, the number of registered farms equals 48,868 units, which is 98.8% of the total number of business entities.

The number of statistically active farms is 30,242 units, of which 26,629 units have 4.9 million hectares of agricultural land under cultivation.

Thanks to legislative initiatives in previous years, conditions have been created for the voluntary transformation of private subsidiary farms into sole entrepreneurship entities, and they are gradually being transformed into family farms without acquiring the status of a legal entity.

According to the Ministry of Justice of Ukraine and information from the State Enterprise “National Information Systems” at the beginning of 2022, 712 family farms were entered in the Unified state register of legal entities, individual entrepreneurs and public formations without acquiring the status of a legal entity.

In the total volume of agricultural production in 2020, the share of agricultural products produced by private farms amounted to 10.7%, including in the volume of crop production – 13.2%, livestock products – 2.5%.

At the same time, about 4 million private subsidiary farms are also participants in the agricultural market, but they are not business entities and sell surpluses of produced (grown, processed) products outside the organized agricultural market and are potential family farms.

Jointly, farms and private subsidiary farms produce more than 50% of gross agricultural output. By the volume of products produced and sold, as well as taking into account labor based on family-labor relations, these categories of producers belong to small and medium-sized ones.

Support for animal husbandry

In total, for the period from 2016-2021, more than UAH 7,673.11 million was allocated from the state budget to support agricultural producers, in particular in the direction of “State Support for the Development of Animal Husbandry and Processing of Agricultural Products” for more than 450.92 thousand recipients:

2016 - UAH 29.96 million;

2017 - UAH 165.84 million;

2018 - UAH 2,393.29 million for more than 154.01 thousand recipients;

2019 - UAH 2,433.69 million for more than 232.36 thousand recipients;

2020 - UAH 1,040.72 million for more than 23.88 thousand recipients;

2021 - UAH 1,609.57 million for more than 40.67 thousand recipients.

Allocation and payment of budget funds was carried out in accordance with the Procedure for using funds provided in the state budget to support the livestock industry, approved by the resolution of the Cabinet of Ministers of Ukraine No. 884 (as amended) (2016-2017) dated 28 October 2015 and the procedure for using funds provided in the state budget for state support for the development of animal husbandry and processing of agricultural products, approved by the Resolution of the Cabinet of Ministers of Ukraine No. 107 (as amended) (2018-2021) dated 07 February 2018.

Every year, thanks to the communication of the Ministry of Agrarian Policy and Food of Ukraine with agricultural producers, which was carried out through specialized associations and working groups in various industries, in particular, on the development of the dairy industry, meat industry, beekeeping, proposals were developed for new and most effective areas of support.

Support in the field of animal husbandry was provided by means of:

- special budget subsidies for existing bee colonies, in the amount of 200 UAH per bee colony;

- special budget subsidies for the maintenance of goats, goat mother stock, young ewes, ewes in the amount of 1000 UAH per head;

- special budget subsidy for the increase in the number of cows of own reproduction in the amount of 30,000 UAH per head;

- partial reimbursement of up to 80% of the cost of purchased breeding (genetic) resources (in particular heifers, calves, cows of dairy, dairy-meat and meat direction of productivity, pigs and boars, sheep, rams, young ewes, goat mother stock, goats, bee packages, queen bees, sperm of bulls and boars and embryos of cattle that have breeding (genetic) value);

- partial reimbursement of up to 50 % of the cost of commissioned objects, and for agricultural cooperatives up to 70% of the cost (objects for keeping (raising and breeding) of farm animals, poultry, aquaculture facilities (on fish farms), milking parlors, utilities for processing agricultural products (in particular for the production of food products of meat, fish, dairy) and/or animal by-products belonging to categories II and III);

- partial reimbursement of up to 50% of the cost of grain storage and processing facilities put into operation;

- partial compensation for the cost of construction and reconstruction of livestock farms and complexes, milking parlors, agricultural processing enterprises in terms of expenses financed by bank loans (up to 25% of expenses incurred);

- partial compensation of the interest rate on bank loans raised to cover expenses related to the implementation of activities in the following industries: sheep breeding, goat breeding, beekeeping, animal husbandry, rabbit breeding, sericulture and aquaculture;

- special budget subsidies for the maintenance of cows of dairy, dairy-meat and meat production in the amount of 1,500 UAH per head;

- special budget subsidies for the breeding of young cattle in the amount of 2,500 UAH per head.

Information on state support for the livestock industry for the period from 2016-2021 in the context of areas is provided in *Appendix 3*.

Irrigation support

Budget funds are allocated to provide state support in the form of a budget subsidy to agricultural producers on a non-refundable basis in the amount of up to 25 percent of the cost of expenses (excluding value-added tax) incurred in accordance with the approved project documentation, but not more than:

UAH 7,500 per 1 hectare of cultivated land for irrigation by sprinkling excluding the cost of irrigation equipment and equipment for irrigation of domestic production;

UAH 19,500 per 1 hectare of cultivated land for irrigation by sprinkling taking into account the cost of irrigation equipment and pumping equipment for irrigation of domestic production;

UAH 18,750 per 1 hectare of cultivated land for drip irrigation, taking into account the cost of drip irrigation equipment and pumping equipment for irrigation of domestic production.

Support for newly created farms

Newly created farms during their formation (the first three years after their creation) are allocated one-off budget subsidy per unit of cultivated land (1 hectare) exclusively for agricultural activities in the amount of UAH 5,000 per 1 hectare, but not more than UAH 100,000 per farm.

Financial support is also provided to:

- a farm that has a net income (revenue) from the sale of products (goods, works, services) for the last year up to 20,000,000 hryvnias, which owns and / or uses agricultural land;
- a farm registered in the current year, which owns and / or uses agricultural land, regardless of the amount of net income (revenue).

To receive state support, business entities submit applications to the Ministry of Agrarian Policy and Food of Ukraine. To provide state support, the Ministry of Agrarian Policy and Food of Ukraine forms a commission, which is a permanent body, approves its composition, regulations on it and application forms. Producers of agricultural products registered in the State Agrarian Register have the right to receive state support based on the information contained in the State Agrarian Register.

If the control bodies establish the fact of illegal receipt and / or misuse of budget funds, the agricultural producer shall return the received budget funds and shall be deprived of the right to receive state support within three years from the date of detection of such violation. Control over the targeted use of funds is carried out by state financial control bodies.

b) The management and control system applied to each scheme (in particular, registration of farmers' and their agricultural areas in a national farm register/land register, registration of animals, procedure for lodging applications and registration of such applications, any other registers in use for agricultural holdings/products/trees and vineyards, data to be submitted, administrative and on-the-spot controls to be performed (including extent as percentage of total controlled applications per scheme and procedures), sanctions to be applied);

Registration of farmers

A farm is subject to state registration as a legal entity or sole entrepreneur in accordance with the Law of Ukraine No. 973 “On Farming” dated 19 June 2003.

To perform state registration of a farm the founder or a person authorized by him shall personally submit the following documents to the state registrar:

- document confirming the right of ownership or use of the land plot;
- filled in registration card for state registration of a legal entity;
- a copy of the original (photocopy, notarized copy) of the decision of the founders or their authorized body to establish a legal entity in cases provided for by law;
- two copies of the foundation documents (in case of submission of electronic documents - one copy).

Procedure for allocating land for farming

The procedure is defined by the Land Code of Ukraine and the Law of Ukraine “On Farming”.

Thus, according to Article 121 of the Land Code of Ukraine, citizens of Ukraine have the right to get land plots from state or municipal property for farming free of charge in the amount of the land plot (share) determined for members of agricultural enterprises located on the territory of the village, settlement, city council where the farm is located.

If several agricultural enterprises are located on the territory of a village, settlement, or city council, the size of the land share (plot) is determined as the average for these enterprises. In the absence of agricultural enterprises on the territory of the relevant council, the share size is determined as the average for the district.

According to Article 7 of the Law of Ukraine “On Farming”, in order to obtain (acquire) ownership of or lease a land plot of state or municipal property for the purpose of farming, citizens apply to the relevant executive authorities, that have powers established by Article 122 of the Land Code of Ukraine.

When registering a legal entity, the provisions of the Law of Ukraine “On State Registration of Legal Entities and Individual Entrepreneurs” shall be taken into account.

Registration and identification of animals

Registration of farms engaged in breeding and keeping animals, slaughtering animals, identification and registration of animals, registration of movement is carried out in accordance with the requirements of the Law of Ukraine “On Identification and Registration of Animals” and regulatory legal acts on identification and registration of animals by species: cattle, pigs, sheep and goats, horses. For example, the procedure for identifying and registering cattle provides for filling out a cattle registration card after the animal is identified, data from which is entered from the Unified State Register of Animals.

Similarly, corresponding registration document for all other animal species (pig registration sheet, sheep/goat registration sheet, horse registration card, donkey/mule/foal registration card) are filled in.

The list of data that shall be contained in the Unified State Register of Animals is regulated by the Regulation on the Unified State Register of Animals, approved by Order No. 578 of the Ministry of Agrarian Policy dated 25 September 2012.

List of regulatory legal acts on identification and registration of animals:

–Procedure for identification and registration of cattle (Order of the Ministry of Agrarian Policy and Food of Ukraine No. 642 dated 04 December 2017);

–Procedure for identification and registration of pigs (Order of the Ministry of Agrarian Policy and Food of Ukraine No. 639 dated 01 December 2017);

–Procedure for identification and registration of sheep and goats (Order of the Ministry of Agrarian Policy and Food of Ukraine No. 20 dated 16 January 2018);

–Regulations on identification and registration of horses (Order No. 496 of the Ministry of Agrarian Policy and Food of Ukraine dated 31 December 2004).

Registration of grape plantations

In accordance with the procedure for registering grape plantations and maintaining the State Register of Vineyards, approved by the Order of the Ministry of Agrarian Policy and Food of Ukraine No. 303 dated 12 August 2014, registered with the Ministry of Justice of Ukraine with No. 1211/25988 dated 08 October 2014, the Ministry of Agrarian Policy and Food of Ukraine annually registers grape plantations of technical and table varieties with an area of more than 0.5 hectares in farms of all forms of ownership.

IV. RURAL DEVELOPMENT POLICY

15. Describe the institutional framework for rural development in your country; policy structure and responsibilities. Information should be provided on all publicly funded rural development activities, whether they are implemented as part of integrated programmes, or as stand-alone schemes. Rural development activities may include, but are not limited to:

a) Increasing the competitiveness of the agricultural and forestry sector through support for investment and restructuring, including investments on farms and forests, support for processing and marketing, land improvement irrigation and water management, early retirement, vocational training, provision of advisory and extension services, establishment of producer groups, and establishment and operation of quality schemes for agricultural products;

The institutional framework for rural development in Ukraine is formed through the interaction of state policies, formed and implemented by the Ministry for Communities and Territories Development (State Regional Policy) and the Ministry of Agrarian Policy and Food of Ukraine (State Agrarian Policy, State Agricultural and Food Security Policy).

According to the Law of Ukraine “On the fundamentals of state regional policy”, the purpose of state regional policy is to create conditions for dynamic, balanced development of Ukraine and its regions, ensuring their social and economic unity, improving the standard of living of the population, compliance with state-guaranteed social standards for every citizen, regardless of the place of residence, and one of the priorities of state regional policy is to identify problem territories in the regions and implement state measures to solve problems.

The legislation on state regional policy defines the framework for planning, financing, monitoring and evaluation, the system of institutions for the development of regions in general and certain functional types of territories (for example, rural areas in unfavorable conditions – where the density of rural population in territorial communities is below 15 people per km², the distance to the nearest cities with a population of more than 50 thousand people is more than 30 minutes by car, and the population decreased in the period 2008-2018 by more than 30%).

At the same time, ensuring rural development is one of the tasks of the Ministry of Agrarian Policy. It is implemented on the basis of comprehensive assistance in supporting small and medium-sized businesses in rural areas (the majority of the population in rural areas is engaged in agriculture, and among them more than 90% are small producers, farmers, rural households) and improving the management of sustainable rural development by:

- taking into account international experience and recommendations on good practices in the formation, implementation and evaluation of the effectiveness of state policy in the field of rural development;

- stimulating the development and increasing the level of competitiveness of small and medium-sized agricultural producers in rural areas, as well as their associations;

- formation of prerequisites for the transformation of small private landowners into family farms, including taking into account the potential of a particular territory for the development of agricultural sectors;

- restoration of the settlement network by taking measures to support entrepreneurial initiatives of rural youth;

- creating appropriate conditions for diversifying the activities of small agricultural producers with integration into production and sales chains in non-agricultural activities, including the development of rural tourism and recreation in rural areas;

- improving the efficiency and quality of scientific, advisory and innovative activities;

- raising awareness of rural population by promoting access to advisory services, including planning and forecasting of economic activities.

In Ukraine, the following legislative initiatives are implemented in terms of rural development:

The Rural Development Concept, approved by Resolution of the Cabinet of Ministers of Ukraine No. 995-p. dated 23 September 2015, which establishes the key priorities for rural development and a tool to facilitate the state agricultural sector operation in the context of the EU free trade area.

Law of Ukraine No. 985-IX dated 5 November 2020 “On Amending Some Laws of Ukraine on the State Agrarian Register and the Improvement of the State Support for Agricultural Product Producers”.

The program “New Village” that was initiated by the President of Ukraine in March 2021 and provides for the establishment of administrative service centres with modern shops, cinemas, and sports centres in rural areas. The program “New Village” includes the development of the agro-industrial complex, in particular animal husbandry. Moreover, the program provides for the reduction of animal husbandry product imports, the increase of the domestic market saturation, as well as ensuring reasonable prices for people.

The draft Regulation on the Approval of the Concept for the Stimulation of Entrepreneurship Development in Rural Areas until 2030 is developed by the Ministry of Agrarian Policy and Food of Ukraine and submitted to the Government for consideration. The implementation of the Concept will have a positive effect on the integrated rural development in the interests of people and facilitate the development of competitive agriculture, the diversification of rural economy, and the development of an enabling environment for rural people. Moreover, this will facilitate reforming of the rural development management system, stimulate proactivity of territorial communities, and foster the increase of rural people incomes and availability of basic services.

Law of Ukraine “On Amending Some Legislative Acts of Ukraine on Stimulating Farm Activities” No. 1788-IX dated 24 September 2021, which provides for the following:

1) standardisation of the structure of land plots used by farms based on State Certificates of Land Permanent Use, which will enable the farms cultivating these land plots to access and benefit from state support;

2) enlargement of the range of state support beneficiaries through the Ukrainian State Fund for Farms Support, in particular through the inclusion of family farms;

3) implementation of the state support for farms chaired by individuals aged up to 35 years, which will enable rural young people to implement their business initiatives and facilitate the reduction of youth migration from rural areas. Such measure is based on the harmonization of the national legislation with the European Union legislation, European best practices, and the Common Agricultural Policy of the European Union that is focused on “young farmers” support.

Financial Support for Farms

Rural development instruments include state support for farms development.

Pursuant to Clause 5 of the Procedure for the Use of Funds Allocated from the State Budget for Financial Support for Farms Development approved by Resolution of the Cabinet of Ministers of Ukraine No. 106 dated 7 February 2018, farms shall receive the following financial support:

- financial support for farms to receive agricultural advisory services;
- budgetary subsidies per unit of cultivated lands (1 hectare) – for newly established farms;
- special budgetary subsidies for keeping cows of all productivity types for farms holding five and more cows identified and registered under respective laws.

The development of advisory services is one of the key objectives of the development of rural areas, farms, and research and educational institutions. The combination of three components – state, education, and science – is the basis of their success.

In 2021, about 2.8 million hryvna were allocated for 96 newly established farms through banks to provide them with agricultural advisory services. Thirteen advisory services were involved in providing advisory services, in particular the Ternopil Agricultural Service (17 recipients), the

Bukovyna Association of Agricultural Advisory Services (16 recipients), the Poltava Oblast Agricultural Advisory Service (14 recipients), as well as 4 agricultural advisors. Moreover, about 356 thousand hryvna were allocated for 39 farms (except for newly established) through banks to cover partially their costs related to received agricultural advisory services. Twelve advisory services were involved in providing advisory services, in particular the Poltava Oblast Agricultural Advisory Service (7 recipients), the Kharkiv Oblast Advisory Centre (7 recipients) and the Agricultural Advisory Service “Agricultural Science” in Kirovohrad Oblast (6 recipients).

Financial support is provided through the Ukrainian State Fund for Farms Support and its regional offices through the provision of repayable financial assistance on a competitive basis to farms (to pursue production activities and diversify production) and family farms without a legal entity status (to purchase agricultural land). Information on financial support for farms by years is provided in the table below.

Financial Support for Farms

Financial support	2018		2019		2020		2021	
	Financing amount, ths. UAH	Number of beneficiaries	Financing amount, ths. UAH	Number of beneficiaries	Financing amount, ths. UAH	Number of beneficiaries	Financing amount, ths. UAH	Number of beneficiaries
Financial support for farms development	203,263.5	5,010	416,698.6	9,458	130,969.5	3,024	120,764.7	1,359
Providing loans to farms	42,580.1	154	225,083.0	595	65,566.9	176	50,000.0	127

Irrigation

To improve land quality in Ukraine, the areas where hydrotechnical reclamation is used to minimize soil degradation and improve farming efficiency are planned to be expanded. The key objective is to renovate drainage systems and construct new irrigation facilities.

Ukraine needs to renovate irrigation facilities for over 2 mln ha of farming lands. That is why the implementation of irrigation reforms is a priority and important task.

As of today, the Irrigation and Drainage Strategy of Ukraine until 2030 approved by Regulation of the Cabinet of Ministers of Ukraine No. 688-p. dated 14 August 2019 is a key document in land reclamation and improvement. The Strategy outlines strategic areas of the state policy for irrigation and drainage, sustainable development of irrigation farming, and ensuring the reliable operation of reclamation systems.

The Procedure for the Use of Funds Allocated from the State Budget to Provide State Support to Agricultural Goods Producers Using Reclaimed Lands, approved by Resolution of the Cabinet of Ministers of Ukraine No. 1070 dated 11 October 2021, provides for the state support of up to 25% of costs (excluding a value added tax) related to the irrigation systems put into operation from 1 November 2020 till 31 October 2021.

The following projects are among the key irrigation projects (by oblasts):

Odesa Oblast: an investment project for the reconstruction of the Lower Dnister irrigation system in Odesa Oblast, which is the first pilot project in the framework of the Irrigation and Drainage Strategy in Ukraine until 2030. Except for the renovation of the engineering infrastructure of the irrigation system, the project is focused on the implementation of institutional reforms for the water management system based on the principles of the basin management of water resources. The implementation of the investment project will provide agricultural goods producers in the area covered by the Lower Dnister irrigation system in Odesa Oblast with reliable access to water resources to ensure sustainable irrigated farming that will facilitate the increase of agricultural production efficiency in the context of climate changes.

Kherson Oblast: a project for the construction of the Sirohozy irrigation system in Kherson Oblast. The Kakhovka Main Irrigation Canal is a source of irrigation. The prospective area of irrigation after the renovation is 201.9 thousand ha.

Mykolaiv Oblast: the following projects are considered to be included in the list of pilot reclamation projects:

1) “The Reconstruction of the Southern Buh Irrigation System in Mykolaiv Raion of Mykolaiv Oblast”. Under the project, the engineering infrastructure of the Southern Buh Irrigation System is planned to be reconstructed, in particular: the main pumping station, the pressure pipeline 4 km long, and the main irrigation canal 16.2 km long. The project implementation will expand irrigation areas in Mykolaiv and Voznesensk Raions of Mykolaiv Oblast up to 20.7 thousand ha.

2) “Modern irrigation – the basis of the innovative development of agricultural production in Mykolaiv Oblast”. The project is intended for agricultural goods producers, water users in the region, research institutes, and local producers of microslides and biological medical products.

The project implementation will ensure the establishment of an innovative polygon for sprinkling farming using smart technologies for performing research and introducing innovative technologies for growing crops; testing new agricultural machinery for irrigated farming; and training agricultural producers and water users in modern methods for hydrotechnical reclamation and environmentally friendly use of reclaimed lands.

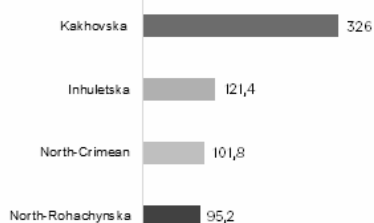
Prospective regions for irrigation development are presented in the picture below.

Irrigation and Canal System of Ukraine



355
irrigation systems

Largest Irrigation Systems, area in thou. ha



/// Prospective areas for irrigation



b) Enhancing the environment and rural areas through support for sustainable land management, including supporting farming in mountain areas or other areas with particular constraints, schemes to protect biodiversity, habitats and landscapes, support for environmentally friendly farming and forestry methods, afforestation, measures aimed at climate change mitigation and adaptation, water management (quality protection and quantity saving), soil protection and genetic resource conservation in agriculture;

Climate change processes encourage farmers to seek new technologies in agriculture. Developing resource-saving and climate-oriented technologies in agriculture will allow the industry to reach a whole new level of production quality and promote the adaptation of business in the context of climate change.

To ensure sustainable farming in the context of climate change and reduction of greenhouse gas emissions, the recovery of irrigation systems (refer to paragraph 15a for details of the projects) is now underway, structures of cultivated areas are being made with the introduction of resource-efficient technologies to grow drought-resistant varieties and hybrids of agricultural crops, modern tillage technologies are being implemented, organic farming introduced, technologies of minimum tillage applied (no till, low till); using all the technologies above allows to retain carbon and nutrients in the soil. Studies show that CO₂ emissions are 30% lower in the areas cultivated with the minimum tillage system in place.

Despite the negative impact of climate change, Ukrainian farmers have been harvesting more than 60 million tons of grain for 8 consecutive years, of which more than 70 million tons for 2 years, with the yield exceeding 42 c/ha.

The general long-term trends in the yield increase and in gross grain harvests demonstrate their average annual increase in yield of +0.5 c/ha and gross harvests of +0.5 million tons, despite some annual variation.

At the same time, one of the components of resource-saving technologies implemented in agriculture in the context of climate change should be “precision farming”, which is nowadays being

introduced in Ukraine. Precision farming tools will help to improve the soil condition, increase yields and enhance the quality of agricultural products, make best use of the following resources: equipment and people, and will contribute to the preservation of the environment.

The Environmental Safety and Climate Adaptation Strategy until 2030 was approved by Order of the Cabinet of Ministers of Ukraine dated 20 October 2021 No. 1363-p.

To improve the resources and facilities, to introduce the latest resource-saving technologies in agriculture, to increase the gross agricultural production, the Law of Ukraine “On the State Budget” annually provides for financial support to agricultural producers.

Specifically, in livestock agriculture innovative technology has been introduced to reduce greenhouse gas emissions and fixed assets have been subject to modernization to foster energy efficiency. To renovate the existing livestock farms and build the new ones, the government encourages investments in the livestock agriculture sector by partially reimbursing their value (up to 50% compensation).

Priority is also the government support to the businesses involved in the agro-industrial sector, including in organic agricultural production.

According to the Directive (EU) 2018/2001 of 11 December 2018 on the promotion of the use of energy from renewable sources (RED II), the Ministry of Agrarian Policy and Food of Ukraine together with the International Finance Corporation (IFC) of the World Bank Group and with “Meo Carbon Solutions” international consulting company prepared the “Greenhouse Gas (GHG) Emissions from Rapeseed and Maize Growing in Ukraine” national report in 2021, which was further submitted to the Director General of the European Commission’s Directorate-General for Energy (DG ENER).

At the same time, pursuant to subparagraph 5 of paragraph 1721 of the Action Plan for Implementing the Association Agreement between the European Union, the European Atomic Energy Community and their Member States, of the one part, and Ukraine, of the other part, as approved by the Order of the Cabinet of Ministers of Ukraine dated 25 October 2017 No. 1106 “On Implementing the Association Agreement between the European Union, the European Atomic Energy Community and their Member States, of the one part, and Ukraine, of the other part” (as amended) and paragraph 420 of the Government’s Priority Action Plan for 2021, as approved by Order of the Cabinet of Ministers of Ukraine dated 24 March 2021 No. 276-p “On Approving the Government’s Priority Action Plan for 2021”, Order of the Ministry of Agrarian Policy and Food of Ukraine dated 24 November 2021 No. 382 “On Approving the Rules on Providing for Soil Fertility and Using Certain Agrochemicals” was adopted and further registered with the Ministry of Justice of Ukraine on 14 January 2022 under No. 34/37370.

The Ministry of Environmental Protection and Natural Resources of Ukraine and the Ministry of Agrarian Policy and Food of Ukraine are also preparing an action plan to implement the Ukraine’s updated Nationally Determined Contribution to the Paris Agreement, in terms of developing and implementing the most recent eco-friendly, climate-adaptive, soil-protective, energy- and resource-saving tillage techniques.

(c) Enhancing the quality of life in rural areas and promoting diversification of economic activities, including the provision of basic services (roads, electricity, water, sewerage,

internet/broadband coverage, local municipality/village authorities' buildings, etc.) for the rural population, renovation and development of villages, development of new economic activities to diversify the rural economy including rural tourism and support for local development activities and social inclusion.

The institutional framework for rural development in Ukraine is formed through the interaction of state policies for the formation and implementation of which the Ministry of Agrarian Policy and Food of Ukraine (state agrarian policy, state agricultural and food security policy) and the Ministry for Communities and Territories Development of Ukraine (state regional policy) are responsible.

According to the official web portal of the Parliament of Ukraine, there were 28,369 communities in rural areas as of 01.01.2022.

According to the State Statistics Service of Ukraine, the rural population amounted to 12,698,000 people (excluding the population of the temporary occupied territory of the Autonomous Republic of Crimea and the city of Sevastopol) as of 01.01.2021.

According to the data of the sample survey of household living conditions, 85.2 per cent and 85.5 per cent of households lived in housing connected to water disposal systems in 2020 and 2021, respectively. The percentages of the rural population whose housing are connected to water disposal systems were 64.2 in 2020 and 65.3 in 2021.

The sample survey of household living conditions shows that 8.3 percent of households in 2020 and 7.6 per cent of households in 2021 were connected to land telephone lines. For rural households these percentages were 4.3 in 2020 and 3.6 in 2021.

According to the same sample survey data, 89.4 per cent of the population and 86.8 per cent of the rural population had and used mobile telephones (smartphones) in 2020.

The unemployment rate in rural areas is 10.3 per cent. The average wages of a full-time employee in agriculture, forestry, and fishery sectors is 16 per cent below the national average.

At the moment, chances for finding a job in rural areas remain low because of a limited number of jobs not only in the sphere of agriculture production but also in other spheres development of which requires financial investments (trade, household services etc.). That is why individuals residing in rural areas, specifically, young people, see their chances for job placement mainly in cities and abroad.

Agriculture producers need to acquire knowledge in agrarian management and marketing, latest agriculture technologies, and to be advised on running profitable businesses, while rural communities seek advice on developing the social infrastructure in rural areas.

In order to improve the current situation, the Government approved the Concept of Rural Development, which was approved by the Order of the Cabinet of Ministers of Ukraine No.995-p dated 23 September 2015, and developed an action plan for implementing the concept until 2025, which was approved by the Order of the Cabinet of Ministers of Ukraine No.489-p dated 19 July 2017. *Inter alia*, the said action plan includes a list of measures aimed to improve the quality of life of the rural population, protect and preserve natural resources in rural areas, diversify and develop rural economy, enhance the system for managing rural areas, and create conditions for improving provision of the rural population with information and advice.

Besides, the Government approved 2021-2027 State Strategy of Regional Development, which was approved by the Decree of the Cabinet of Ministers of Ukraine No. 695 dated 05 August 2020 and action plan for implementing it for 2021-2023, which was approved by the Order of the Cabinet of Ministers of Ukraine No. 497-p dated 12 May 2021. *Inter alia*, the said action plan contains a list of measures aimed:

- To stimulate development of information and communication technologies in rural areas, specifically, to cover 100 per cent of rural areas with broadband access to Internet services and provide 95 per cent of the population with mobile Internet services;

- To stimulate development of small and medium-sized businesses in rural areas, in the first place, remote areas and areas with low population density as well as to expand the business support network “Diia. Business” and make sure that these centres provide specialized professional advice.

Within the framework of diversification and development of the rural economy, in particular, promotion of tourism in rural areas, where the products with special geographical indications are produced, the Ministry of Economy together with the EU funded project “Support to the development of a Geographical Indications system in Ukraine” implemented the following pilot projects:

- “The Route of Taste of the Carpathian Region”;

- “The Route of Wine and Tastes of Transcarpathia”;

- “Wine and Taste Route of Ukrainian Bessarabia”.

- As part of the implementation of projects, among other things, the functioning of websites has been introduced: <https://bessarabianroute.com.ua>, <https://ukrainiangis.com.ua>.

16. Detail and describe any links between your rural development policy and other sectoral and territorial policies.

According to the Concept of Rural Development, as approved by the Order of the Cabinet of Ministers of Ukraine dated 23 September 2015 No. 995, central and local executive bodies and local self-government authorities are taking measures to improve the life quality and the economic well-being of rural residents.

The action plan for implementing the Concept of Rural Development relies on the power decentralization reform that resulted in the transfer of significant powers and budgets from the central government to local governments by empowering the latter with authorities and resources, including financial resources (budget decentralization) and in the initiation of territorial communities on their basis. The Concept is expected to be implemented up to 2025.

The Concept implementation is designated to achieve the following goals:

- increase in the number of the rural population and decrease in the mortality rate of the rural population to the respective value in towns: 13.1 persons per 1,000 inhabitants;

- salary increase in agriculture;

- increase in the number of jobs in rural areas to 1 million;

- increase in the number of the employed rural population by 1.5 times;

- increase of the share of income generated by rural households from entrepreneurship and self-employment to 15%;

–increase of the share of organic certified agricultural land to 7%, of which arable land - to 5%.

2021-2027 State Strategy of Regional Development, as approved by the Order of the Cabinet of Ministers of Ukraine dated 05 August 2020 No. 695, has outlined the strategic goal referred to as the “Developing a Consolidated State in the Social, Humanitarian, Economic, Environmental, Security and Spatial Dimensions”, which also involves a number of tasks to be implemented:

–supporting integrated rural development projects;

–encouraging the development of various forms of cooperation and farming; making markets available for small and medium-sized agricultural producers, making the infrastructure available for storage of agricultural products; introducing new technologies and equipment to process agricultural raw materials;

–stimulating the development of small and medium-sized businesses in rural areas, especially in remote and low-density ones, and also expanding the network of business support centers;

–supporting the diversification of agricultural production, introducing new crops, developing livestock agriculture, starting the agricultural product processing businesses that rely on innovative technologies, which are focused on using the local raw materials and which contribute to creating new jobs.

This strategy is implemented using an integrated territorial approach and is among other intended to address a number of the “Rural Development” tasks.

It is worth noting that the Ministry of Communities and Territories Development of Ukraine coordinates all sectoral policies for rural development through the Interdepartmental Coordination Commission on Regional Development, as well as through the involvement of all CEBs responsible for various sectoral policies in the development and implementation of the State Strategy for Regional Development.

The government programs designed to support farming and cooperation definitely contribute to the social and economic development of rural areas, but sustainable development is impossible where the territorial communities and village residents themselves fail to be proactive.

In addition, Ukraine supports regional project initiatives, which will enable the community to address the issues of improving the social infrastructure of the village and to strengthen the budget of rural settlements.

Farmers are getting support through loans and dedicated programs. To ensure the access of small farms to credit resources, including for purchasing the agricultural land, Law of Ukraine “On the Fund for Partial Credit Guarantee in Agriculture” dated 04 November 2021 No. 1865-IX was adopted. The Fund’s operation allow that small and medium-sized farms get a partial guarantee of their obligations to financial institutions under loan agreements, which will result in reduced risks for banks, and farms will have access to resources to finance their agricultural works. The fund will allow financing small farmers that cultivate up to 500 hectares. Earlier, these small farmers had no access to loans whatsoever. The lending arrangements will be similar to those provided for in the “5-7-9%” program initiated by the President of Ukraine.

V. QUALITY POLICY

17. Please confirm that your country has policy and legislation in place for the recognition, control and protection of geographical indications and traditional specialties guaranteed.

In Ukraine, Law of Ukraine “On Legal Protection of Geographical Indications” dated 16 June 1999 No. 752-XIV (hereinafter – the “Law”) is in effect, which determines the principles of legal protection of geographical indications in Ukraine and regulates the relations arising in connection with their registration, use and protection. The Law also provides for the electronic State Register of Geographical Indications of Ukraine.

Special regulations have been developed to implement the provisions of the Law:

1) Order of the Cabinet of Ministers of Ukraine dated 03 June 2020 No. 439 “On Designating Specially Authorized Bodies to Approve Product Specifications and Determine and Control Special Qualities and Other Features of Goods”. According to this Order, those bodies are as follows:

Ministry of Economy of Ukraine – for agricultural products (agricultural goods), foods, wines, flavoured wine products, alcoholic beverages;

Ministry of Culture and Information Policy of Ukraine – for products of folk arts and crafts;

Ministry of Health of Ukraine – for natural healing resources (mineral waters, therapeutic muds, ozokerite, bischofite, brine of estuaries and lakes, etc.).

2) Rules of how to make, submit and check an application to register a geographical indication, as approved by Order of the Ministry for Development of Economy, Trade and Agriculture of Ukraine dated 12 March 2021 No. 536-21 and registered with the Ministry of Justice of Ukraine on 18 May 2021 under No. 649/36271. These Rules outline the requirements to the documents supporting the applications for registration of geographical indications and regulate the relations arising in connection with the submission of applications, their checks and any application-related decision-making.

3) Order of the Ministry for Development of Economy, Trade and Agriculture of Ukraine dated 12 April 2021 No. 743 “On Adoption of Requirements to Specifications of Products with Geographical Indications and to the Procedure for Their Approval”, as registered with the Ministry of Justice of Ukraine on 26 April 2021 under No. 552/36174. These Requirements apply to agricultural products (agricultural goods), foods, wines, flavoured wine products, alcoholic beverages and to the procedure for their approval. According to the Requirements, an expert commission was specially designated by the Order of the Ministry of Economy of Ukraine dated 07 July 2021 No. 208 to approve the specifications of products with geographical indications.

The laws that regulate geographical indications have been developed and adopted to secure Ukraine’s commitments as part of the European integration to harmonize the procedures for granting legal protection to geographical indications with the EU laws in accordance with Section II “Standards Concerning Intellectual Property Rights” of Chapter 9 of Title IV “Trade and Trade-Related Matters” of the Association Agreement between European Union, the European Atomic Energy Community and their Member States, of the one part, and Ukraine, of the other part, as ratified by Ukraine on 16 September 2014.

Legal protection is granted to geographical indications on the basis of their state registration that has no expiration date (except in cases of early terminated registration of geographical indications as in Article 21 of the Law).

The National Intellectual Property Authority on behalf of the state makes the state registration of geographical indications by entering the information into the State Register of Geographical Indications of Ukraine; the functions of the Authority, according to Order of the Cabinet of Ministers of Ukraine dated 13 October 2020 No. 1267-p, are exercised by the State Enterprise “Ukrainian Intellectual Property Institute” (Ukrpatent).

According to Article 25 of the Law, the rights to geographical indications are protected in court or otherwise as prescribed by law. Courts, in accordance with their jurisdiction, resolve among other disputes on: legality of registration of a geographical indication, ascertaining the fact of using a geographical indication, violations of the rights arising out of the registration of a geographical indication, compensations.

Since 2019, the following geographical indications have been registered in Ukraine: Hutsul sheep bryndza, Hutsul cow bryndza, Melitopol cherries, Krolevets towels, Petrykivka painting and three wines: Amarone della Valpolicella, Valpolicella Ripasso, Valpolicella.

At present, the Committees of the Verkhovna Rada of Ukraine are working on the draft laws developed to secure Ukraine’s commitments as part of the European integration in the context of harmonization of Ukraine’s effective legal requirements to the protection of rights to geographical indications with the EU laws:

–in terms of compliance with the rules of protection of geographical indications for agricultural products and foods: draft Law of Ukraine “On Specific Nature of Legal Protection of Geographical Indications for Agricultural Products and Foods, Protection of Rights and Use of Quality Schemes, Including the Traditional Specialities Guaranteed for Agricultural Products and Foods” (as registered with the Verkhovna Rada of Ukraine on 04 June 2021 under No. 5616) (hereinafter – “draft Law No. 5616”);

–in terms of legal protection of geographical indications for alcoholic beverages by the Ministry of Economy of Ukraine: draft Law of Ukraine “On Geographical Indications of Alcoholic Beverages” (as registered with the Verkhovna Rada of Ukraine on 28 December 2021 under No. 6480) (hereinafter – “draft Law No. 6480”).

Draft Law No. 5616 suggests to:

- 1) introduce the idea of a traditional speciality guaranteed, provide for the condition to be met to grant it legal protection, introduce the concept of special quality indicators and the procedure for their use;
- 2) clarify the conditions for granting legal protection to geographical indications for agricultural products and foods and the grounds for refusal to grant such protection;
- 3) specify the range of individuals entitled to prepare the specifications and other documents required for the state registration of geographical indications for agricultural products and foods;
- 4) revise the requirements to the documents required for the state registration of geographical indications and traditional specialities guaranteed;
- 5) outline the procedure for approvals of specifications and other documents required for the state registration of geographical indications for agricultural products and foods, traditional speciality guaranteed;
- 6) determine the requirements to the technical conditions to be met by the product for which a geographical indication or a traditional speciality guaranteed is claimed;

7) clarify the list of rights and obligations arising out of the state registration of geographical indications;

8) outline the procedure for certification of the product for its compliance with the specification of the product having a geographical indication, a traditional speciality guaranteed.

Draft Law No. 6480 anticipates to:

1) clarify the conceptual framework of geographical indications for alcoholic beverages;

2) introduce the categories of alcoholic beverages, for which geographical indications are to be registered;

3) provide the details of preparation to the registration of geographical indications for alcoholic beverages;

4) document special requirements to the specifications of the alcoholic beverages with geographical indications;

5) define the specific nature of use and protection of geographical indications for alcoholic beverages;

6) introduce the control system for the geographical indications for alcoholic beverages;

7) introduce responsibility for violations of the laws related to the geographical indications for alcoholic beverages.

VI. ORGANIC FARMING

18. Do you have any area under organic farming? If so, please describe the sector and its organisation with statistical data including farm structure, production, number of holdings, number of livestock, number of operators, processors, trade (export/import). Please provide details and in particular information on:

a) Legislative basis (name and reference of relevant legal act) and objectives and general description of the scheme;

The basic principles and requirements for organic production, circulation and labeling of organic products, as well as certification and control are established by the Law of Ukraine “On basic principles and requirements for organic production, circulation and labeling of organic products” (hereinafter referred to as the Organic Production Law) and relevant bylaws.

In particular, the law on organic production defines the general principles of state regulation in the field of organic production, circulation and labeling of organic products, which provide for the development of the domestic market, increase in exports, popularization of organic products, creation of a unified system of state control of organic production, circulation and labeling of organic products. The law sets the legal framework for the activities of the central executive bodies, in particular the Cabinet of Ministers of Ukraine, the central executive body, which forms and implements the state agrarian policy (until September 2019 – the Ministry of Agrarian Policy, during September 2021 – February 2022 – the Ministry of Economy, from February 2022 – the Ministry of Agrarian Policy), State Service of Ukraine on Food Safety and Consumer Protection, and organic market participants. It also defined the directions of state policy in the field of organic production.

National legislation in the field of organic production, circulation and labeling of organic products was developed taking into account the provisions of Council Regulation (EC) No. 834/2007, and Commission Regulations (EC) No. 889/2008 of 05.09.2008 and No. 1235/2008 of 08.12.2008. Consequently, the provisions of Ukrainian legislation in the field of organic production are harmonized with the requirements of the EU legislation.

According to the data of the Pulse of the Agreement website the progress in implementation of the tasks under the Organic Production direction is 98%.

The legislation of Ukraine in the field of organic production, circulation and labeling of organic products is as close as possible to the EU law in this area.

The translation into Ukrainian of the new EU organic legislation (the Regulation (EU) 2018/848 of the European Parliament and of the Council and relevant bylaws), which was put into effect from 01.01.2022 for the EU countries, has been made, and joint work on harmonization of the organic legislation with the mentioned EU organic legislation is planned in the Working Group on organic production development.

(b) Area under organic farming (indicating year(s) concerned);

According to monitoring data, in 2020, the total area of agricultural land (organic and in-conversion) amounted to 462 thousand hectares (1.1% of the total area of agricultural lands in Ukraine). At the same time, there were 549 organic market operators, of which 419 were agricultural producers (in 2019 – 617 and 470, respectively).

The concentration of organic producers in the regions and, accordingly, the area of land occupied under organic production, by region, is shown on the organic map of Ukraine.

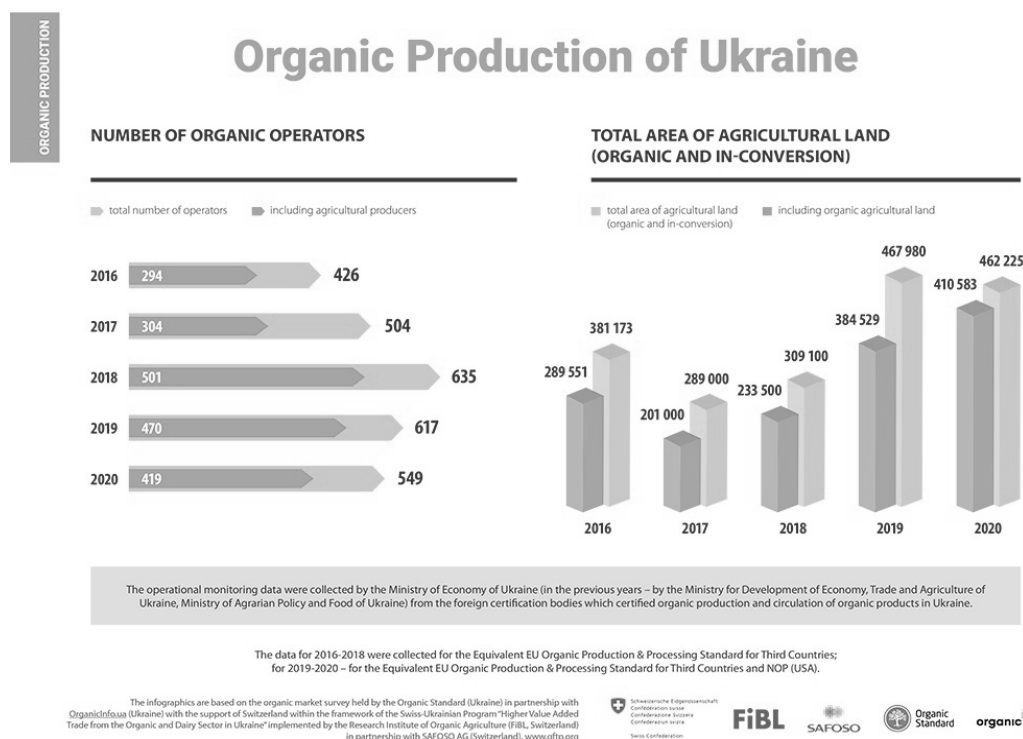
Data on the domestic market of organic products in Ukraine for 2020



** Data from foreign certification bodies that certified organic production and circulation of organic products in Ukraine in 2020. Monitoring is currently underway for 2021.*

The infographic shows data on the number of organic operators and the area of land under organic production in 2016-2020. It should be noted that during these five years, the land area increased by 21 %, and the number of operators – by 29 %.

Data on the number of organic operators and the area under organic production for 2016-2020



** Data collected from foreign certification bodies that have certified organic production and circulation of organic products in Ukraine according to standards equivalent to the EU organic legislation (data for 2016-2018) and standards equivalent to the EU and the US organic legislation (NOP) (data for 2019-2020)*

The export of organic products is mainly focused on European countries, where 73% of Ukrainian “organic” exports were directed to the market in 2020.

Distribution of organic export form Ukraine by region of the world

DISTRIBUTION OF ORGANIC EXPORT FROM UKRAINE BY REGION



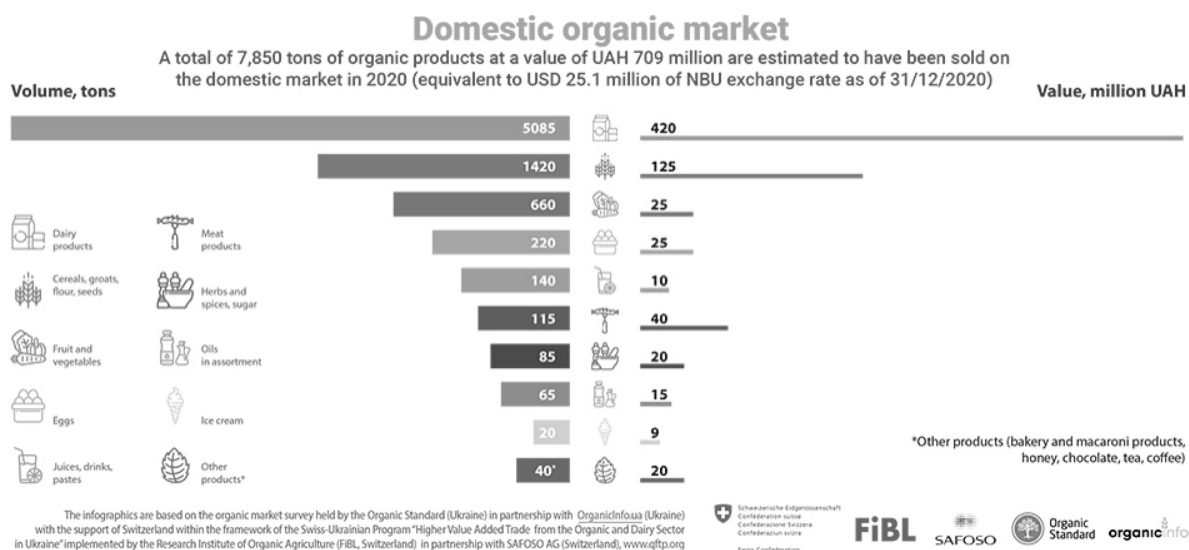
According to the report of the European Commission in 2020, Ukraine ranked 4th out of 124 countries in terms of organic products imported to the EU.

So, during 2020, 2.79 million tons of organic agri-food products were imported to the EU, 7.8% of which are of Ukrainian origin (217.2 thousand tons worth 116.7 million USD).

In total, according to the results of 2020, Ukraine exported 332 thousand tons of organic products worth 204 million USD to about 40 countries around the world. The largest consumer countries of Ukrainian organic products in this period were the Netherlands, USA, Germany, Lithuania, Austria, Great Britain, Poland, Canada, Italy, Switzerland. Ukrainian producers also exported to Australia and some Asian countries, in particular, China, Vietnam, India and Japan, as well as carried out the first deliveries of organic products to the Republic of Korea and Myanmar.

The main export products that were supplied to international markets were cereals, oilseeds, honey, eggs, vegetables and fruits. Sunflower cake, flour, sunflower oil, sunflower meal, apple concentrate and birch sap were also exported. In total, about 80 items of organic goods were exported from Ukraine in 2020.

In recent years, the domestic consumer market for organic products has expanded through major supermarket chains. The main types of organic products that were consumed: milk and dairy products, cereals and grain products, flour, seeds, vegetables and fruits, eggs, juices, drinks, pastas, meat products, kitchen herbs and spices, sugar, sunflower oil, ice cream and other products that include bakery and pasta, sunflower oil, honey, chocolate, tea and coffee. For more detailed data for 2020, see the infographic.



(c) Description of administrative and enforcement arrangements (including resources, human, financial, and infrastructure, and if possible the administrative organisational chart).

The Ministry of Agrarian Policy and Food of Ukraine and the State Service of Ukraine for Food Safety and Consumer Protection implement their functions in accordance with the legislation in the field of organic production, circulation and labeling of organic products.

The task of the Ministry of Agrarian Policy and Food of Ukraine is to develop a regulatory framework in this area, as well as maintain three registers provided for by the law (the State register of certification bodies in the field of organic production and circulation of organic products, the State register of producers operating in accordance with the legislative requirements in the field of organic production, circulation and labeling of organic products, and the State Register of organic seeds and planting material).

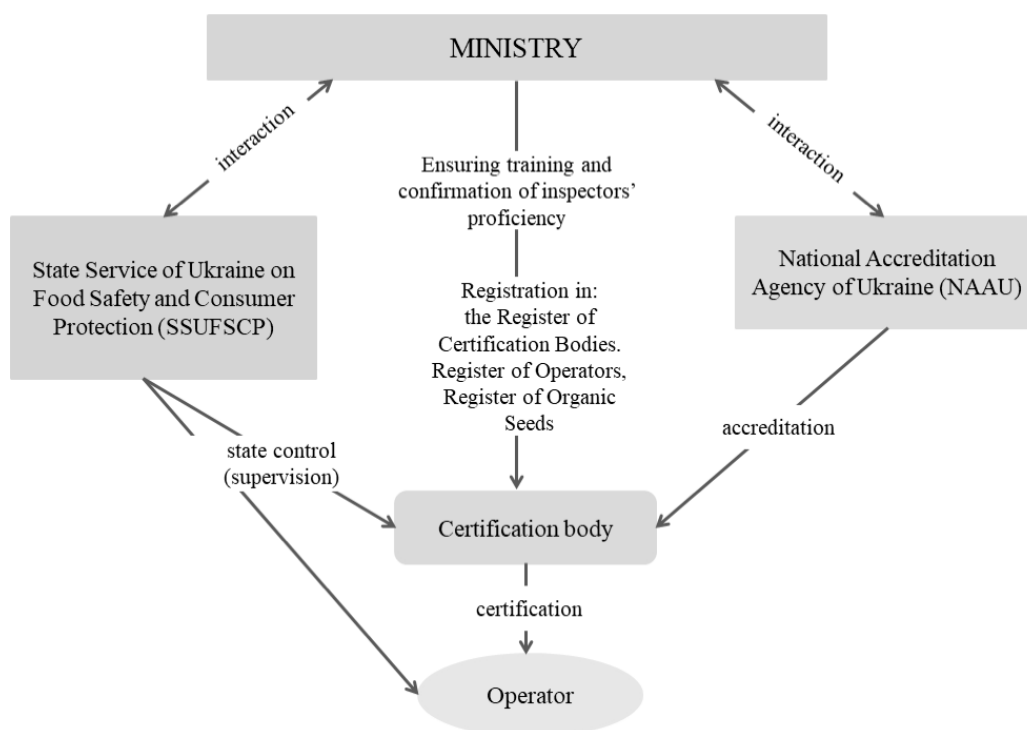
It should be mentioned that during the period (September 2019 – February, 2022), when the Ministry of Economy of Ukraine was responsible for organic production, the Department for state policy in organic production within the Directorate of the state policy for sanitary and phytosanitary measures worked on the development of the legal framework in this area. This department continues to work in this direction as part of the Department of state policy in the field of sanitary and phytosanitary measures in the Ministry of Agrarian Policy and Food of Ukraine. In addition, it will also ensure the implementation of other powers of the Ministry of Agrarian Policy and Food of Ukraine in the field of organic production, including maintaining the registers.

The State Service of Ukraine for Food Safety and Consumer Protection is a competent body in the field of organic production and, in accordance with the legislation, is authorized to exercise state control (supervision) in the field of organic production, circulation and labeling of organic products over the activities of operators and certification bodies. Thus, the Department of food safety, veterinary medicine and control in the field of organic production is responsible for developing and ensuring the operation of a system of supervision and state control in the field of organic production, circulation and labeling of organic products. It includes a department for control and monitoring in the field of organic production.

In order to recognize certificates certifying organic production and/or circulation of organic products in accordance with legislation other than the legislation of Ukraine, the State Service of Ukraine for Food Safety and Consumer Protection maintains the List of foreign certification bodies, which is published on the official website of the State Service of Ukraine for Food Safety and Consumer Protection.

In addition, the National Accreditation Agency of Ukraine, in accordance with the legislation of Ukraine, is authorized to carry out accreditation of enterprises, institutions and organizations that intend to become certification bodies.

Organizational scheme of interaction between central executive authorities and organic products market entities



**MINISTRY: powers in the field of organic production, circulation and labeling of organic products were fulfilled by: until August 2019 – the Ministry of Agrarian Policy; during August 2019 – February 2022 – the Ministry of Economy; from February 2022 – the Ministry of Agrarian Policy.*

The Entrepreneurship and Export Promotion Office promotes the development and support of small and medium-sized businesses, supports and promotes the export of goods, works and services of Ukrainian producers in accordance with the program documents of the Cabinet of Ministers of Ukraine, other documents of state planning, in particular it promotes the export of organic products from Ukraine in cooperation with key players in the organic sector.

19. Please describe the accreditation and certification system for organic farming including the control system in place as well as its relevance for import/export.

Accreditation

According to the law on organic production, an enterprise that intends to become a certification body and provide certification services for organic production shall have accreditation in the field of organic production and/or circulation of products in one or more branches of organic production.

Accreditation is carried out by the National Accreditation Agency of Ukraine in accordance with the Law of Ukraine “On Accreditation of conformity assessment bodies”. Accreditation is carried out in accordance with the DSTU EN ISO/IEC 17065:2019 Standard “Conformity assessment. Requirements for products, processes and services certification bodies”.

A legal entity applies to the National Accreditation Agency of Ukraine for accreditation in the field of organic production, circulation and labeling of organic products in one or more industries and/or circulation of organic products, respectively, and receives accreditation.

Accreditation in the field of organic production and/or circulation of products in one or more of the following industries:

- organic crop production (including seed and seedling production);
- organic animal husbandry (including poultry and beekeeping);
- harvesting of organic objects of the plant world;
- organic mushroom farming (including growing organic yeast);
- Organic aquaculture;
- production of organic seaweed;
- production of organic food products (including organic winemaking);
- production of organic feed.

After accreditation and fulfilment of other requirements established by the law on organic production to certification bodies, such body is entered by the Ministry of Agrarian Policy in the Register of certification bodies and can carry out certification of organic production and/or circulation of organic products.

The responsible Ministry cooperates with the National Accreditation Agency of Ukraine in case of establishing the facts of violations by the certification body in order to take appropriate measures provided for by the legislation of Ukraine in the field of accreditation.

It should be noted that the key role in ensuring an effective verification process within the framework of organic production certification is played by the inspector for organic production and/or circulation of organic products, who is an official of the certification body and shall be competent in performing inspections. The presence of such personnel is also necessary for accreditation of certification bodies.

To this end, at the beginning of 2022 the Ministry of Economy of Ukraine held exams for persons desiring to become inspectors for organic production and/or circulation of organic products in accordance with the law on organic production and relevant Procedure stipulated by the Order of the Ministry of Economy of Ukraine No. 723 of 11.10.2021. As a result, more than 30 people received

relevant certificates. This allowed the certification bodies employing such specialists to submit documents to the National Accreditation Agency of Ukraine for the purpose of accreditation in the field of organic production.

Thus, in February 2022, the National Accreditation Agency of Ukraine launched an accreditation procedure for 3 potential certification bodies.

Certification

According to the law on organic production, certification of organic production is delegated to accredited certification bodies, which are entered in the State register of certification bodies in the field of organic production and circulation of organic products (will be maintained by the Ministry of Agrarian Policy).

Foreign certification bodies are included in the list of foreign certification bodies. In order to include a foreign certification body in the list of foreign certification bodies, an importer or exporter submits to the central executive body implementing the state policy in the field of safety and certain indicators of food quality, an application in any form to include the foreign certification body in the list.

The law on organic production and Procedure for certification of organic production and/or circulation of organic products approved by Resolution of the Cabinet of Ministers of Ukraine No. 1032 of 21.10.2020, stipulated that certification of organic production and/or circulation of organic products is carried out by certification bodies annually with at least one mandatory on-site inspection. In addition, if necessary, additional inspections can be carried out: unscheduled inspections (to check the remediation of previously identified inconsistencies, in case of receiving a report of violation or at the request of the operator) and additional random inspections covering the operators determined based on the results of a general risk assessment.

The procedure of certification of organic production and/or circulation of organic products also defines the basis for planning control measures by certification bodies. In particular, it is stipulated that the certification body should include each operator with which it has a contract in the annual audit plan, setting the terms and form of conducting the inspection in relation to it.

State control

State Service of Ukraine on Food Safety and Consumer Protection, guided by the law on organic production, the laws of Ukraine “On state control over compliance with legislation on food products, feed, animal by-products, animal health and welfare” and “On the basic principles of state supervision (control) of economic activity” is authorized to exercise state control (supervision) in the field of organic production, circulation and labeling of organic products, in particular by implementing scheduled/unscheduled measures of state control by state inspectors of the State Service of Ukraine on Food Safety and Consumer Protection and its territorial bodies.

In order for the State Service of Ukraine on Food Safety and Consumer Protection to implement the mentioned powers, on the basis of a risk-based approach, documents were approved that define the criteria for assessment of the degree of risk of carrying out economic activities by the certification bodies and the operators. In addition, the inspection certificate forms are being developed.

Also, as noted, the State Service of Ukraine on Food Safety and Consumer Protection maintains a list of foreign certification bodies. According to Procedure for maintaining the list of foreign certification bodies approved by the Order of the Ministry of Economic Development, Trade and

Agriculture of Ukraine dated 26.05.2020 No. 985, importers and exporters in case of absence of a foreign certification body in the specified list, which issued a certificate for products that they import or export, submit to the State Service of Ukraine on Food Safety and Consumer Protection an application for inclusion of their foreign certification body in the specified list.

State registers

According to the law on organic production, certification bodies shall be entered in the State register of certification bodies in the field of organic production and circulation of organic products, and economic entities – in the State register of producers operating in accordance with the legislative requirements in the field of organic production, circulation and labeling of organic products. Currently, measures are being taken to ensure the maintenance of these registers.

Taking into account the transfer of powers in the field of organic production from the Ministry of Economy of Ukraine to the Ministry of Agrarian Policy and Food of Ukraine, the registers will be maintained by the Ministry of Agrarian Policy and Food of Ukraine in accordance with Procedure established by Resolution of the Cabinet of Ministers of Ukraine No. 87 of 12.02.2020. Information, including any amendments, to both registers shall be provided by the certification body. If the Ministry of Agrarian Policy and Food of Ukraine includes a certification body in the State register of certification bodies in the field of organic production and circulation of organic products, it will be assigned a registration code.

Also, the Ministry of Agrarian Policy and Food of Ukraine will maintain a State register of organic seeds and planting material, information to which shall be submitted by operators who have the appropriate seeds or planting material.

VII. AGRICULTURAL STATISTICS

20. Please provide a brief description of the organisational structure and responsibilities for statistical data collection and monitoring, underlining the co-operation between the Ministry of Agriculture and central/local statistical offices concerning agricultural statistics.

The State Statistics Service of Ukraine is a specially authorized central executive body for statistics that ensures the formulation and implementation of the state policy for statistics. The Service activities are guided and coordinated by the Cabinet of Ministers of Ukraine.

Pursuant to Clause 12 of the Law of Ukraine “On State Statistics”, the key tasks of state statistics bodies are, in particular, the following: involvement in the formulation of the state policy for statistics and ensuring its implementation; the collection, processing, analysis, distribution, preservation, protection and use of statistical information on mass economic, social, demographic, and environmental phenomena and processes that occur in Ukraine and its regions; ensuring reliability and objectivity of statistical information.

Agricultural statistics are represented together with statistics for forestry and fisheries (for more detailed information please see Clause 5).

Over 60% of agricultural statistical indicators (excluding agriculture census indicators – over 80%) comply fully or partially with European regulations stated in the Statistical Requirements

Compendium-2021 in terms of the methodology for indicators forming, breakdowns, periodicity, and dissemination terms.

Indicators for quantitative land inventory are formed by the State Service of Ukraine for Geodesy, Cartography and Cadastre.

The Ministry of Agrarian Policy and Food of Ukraine uses information that is published in the public domain on the official website of the State Statistics Service of Ukraine (<http://www.ukrstat.gov.ua/>).

21. Please provide an overview of the results of the last census in the area of agriculture (year, coverage) and explain when next agriculture census is planned.

In Ukraine, an agriculture census has never been conducted before. A pilot agriculture census was conducted in 2012.

The possibility and necessity of conducting the agriculture census in Ukraine is determined by the Law of Ukraine “On agriculture census”.

The State Statistics Service of Ukraine has prepared proposals for including structural survey issues in agriculture (in particular, on household agricultural activities) in the program of the pilot population census, which was conducted in 2019. However, these proposals were not supported by other ministries.

In order to implement Regulation No. 2018/1091, the State Statistics Development Program until 2023 provided for the implementation of appropriate measures for the preparation and conducting of the agriculture census, taking into account the deadline for conducting the population census, which has now been postponed to 2023. The deadline for conducting the agriculture census has not yet been determined. When determining this deadline, it will be necessary to take into account the post-war situation in the country as a whole and in agriculture in particular, because in the context of significant structural changes in agriculture, conducting an agriculture census is problematic.

22. Please, describe whether and how you collect data and provide statistics on the following areas:

- (a) Structure of agriculture holdings;***
- (b) Agriculture production;***
- (c) Agricultural prices and price indices;***
- (d) Economic accounts for agriculture;***
- (e) Organic arable farming;***
- (f) Structure of orchards and vineyards;***
- (g) Agriculture and environment;***
- (h) Agriculture trade;***
- (i) Rural Development.***

(a) Structure of agriculture holdings

In Ukraine, a survey of the structure of agriculture holdings similar to the one described in the Regulation (EC) 1166/2008 and Regulation (EU) 2018/1091 repealing the former one was not conducted.

At the same time a wide range of statistical observations covering operations of agrarian businesses, in the first place agriculture enterprises, may provide answers to a large number of questions concerning the structure of agriculture holdings envisaged by the EU Regulation

(b) Agriculture production

The statistical compendium of the State Statistics Service titled “Ukrainian Animal Production Sector” contains data on production of animal products, number of livestock, and consumption of feeds by livestock. This information is provided for Ukraine as a whole by year by regions.

Production of Animal Produce

2021	In the year of 2021 by all producer categories: <ul style="list-style-type: none">– Sales of livestock for slaughtering in live weight: 3,454,300 tons;– Total meat production in carcass weight: 2,432,600 tons;– Total number of produced eggs: 14.1 billion pieces;– Total milk production: 8,728,800 tons;– Cow productivity: 6,859 kg per cow;– Wool production: 1,477.0 tons.
2020	In the year of 2020 by all producer categories: <ul style="list-style-type: none">– Sales of livestock for slaughtering in live weight: 3,393,700 tons;– Sales of livestock for slaughtering in carcass weight: 2,477,500 tons including:<ul style="list-style-type: none">○ Beef and veal: 345,400 tons;○ Pork: 697,200 tons;○ Mutton and goat meat: 11,500 tons;○ Poultry: 1,404,700 tons;– Total number of produced eggs: 16.2 billion pieces;– Total milk production: 9,254,900 tons;– Yearly average cow productivity on agriculture enterprises: 6,689 kg per cow;– Wool production: 1,573 tons;– Honey production: 68,028 tons.
2019	In the year of 2019 by all producer categories: <ul style="list-style-type: none">– Sales of livestock for slaughtering in live weight: 3,500,000 tons;

	<ul style="list-style-type: none"> – Meat production in carcass weight: 2,492,400 tons including: <ul style="list-style-type: none"> ○ Beef and veal: 369,500 tons; ○ Pork: 708,300 tons; ○ Mutton and goat meat: 13,900 tons; ○ Poultry: 1,381,400 tons; – Total number of produced eggs: 16.7 billion pieces; – Total milk production: 9,663,200 tons; – Yearly average cow productivity on agriculture enterprises: 6,101 kg per cow; – Wool production: 1,734 tons; – Honey production: 71,279 tons.
2018	<p>In the year of 2018 by all producer categories:</p> <ul style="list-style-type: none"> – Sales of livestock for slaughtering in live weight: 3,317,600 tons; – Meat production in carcass weight: 2,354,900 tons including: <ul style="list-style-type: none"> ○ Beef and veal: 358,900 tons; ○ Pork: 702,600 tons; ○ Mutton and goat meat: 14,300 tons; ○ Poultry: 1,258,900 tons; – Total number of produced eggs: 16.1 billion pieces; – Total milk production: up to 10,006,400 tons; – Yearly average cow productivity on agriculture enterprises: 6,190 kg per cow; – Wool production: 1,908 tons; – Honey production: 71,279 tons.
2017	<p>In the year of 2017 by all producer categories:</p> <ul style="list-style-type: none"> – Sales of livestock for slaughtering in live weight: 3,266,900 tons; – Meat production in carcass weight: 2,318,200 tons including: <ul style="list-style-type: none"> ○ Beef and veal: 363,500 tons; ○ Pork: 735,900 tons; ○ Mutton and goat meat: 13,500 tons; ○ Poultry: 1,184,700 tons; – Total number of produced eggs: 15.5 billion pieces; – Total milk production: up to 10,280,500 tons; – Yearly average cow productivity on agriculture enterprises: 6,025 kg per

	cow; – Wool production: 1,967 tons; – Honey production: 66,231 tons.
--	--

** Based on information from the State Statistics Service of Ukraine. The data does not take into account temporary occupied territories of the Autonomous Republic of Crimea, city of Sevastopol, and part of temporary occupied territories in Donetsk and Luhansk oblasts.*

Gross Yield of Agriculture Crops (,000 tons)*

Crops	2021	2020	2019	2018	2017
Cereal and legumes**	85680.1	64933.3	75143.0	70056.5	61916.7
Wheat	32075.0	24877.4	28327.9	24605.8	26158.0
Maize	41869.8	30290.3	35880.1	35801.1	24668.8
Barley	9419.0	7636.3	8916.8	7349.1	8284.9
Rye	593.8	454.5	333.2	392.9	505.4
Triticale	32.3	34.9	42.4	47.0	51.0
Oat	470.7	510.0	422.0	418.5	471.4
Buckwheat	106.0	97.6	85.0	137	180.4
Sorgo	173.9	106.5	192.0	193.9	198.5
Millet	204.2	256.1	169.7	80.5	84.4
Rice	48.6	60.7	54.6	69.2	63.9
Pulse crops	681.0	600.0	709.9	954.6	1238.8
Soya	3479.7	2797.7	3698.7	4460.8	3899.4
Oil flax	42.5	15.6	15.2	23.6	45.6
Winter and spring rape	2927.6	2557.2	3280.3	2750.6	2194.8
Sunflower**	16381.6	13110.4	15254.1	14165.2	12235.5

Sugar beet	10804.4	9150.2	10204.5	13967.7	14881.6
Potato	21354.0	20837.9	20269.2	22503.9	22208.2
Vegetable crops	9936.7	9652.8	9687.6	9440.2	9286.3
Fodder beet	5175.7	5503.3	5788.5	6158.5	6147.94
Forage maize	6817.7	6620.8	6373.0	6955.2	6546.2

** Based on information from the State Statistic Service of Ukraine. The data does not take into account temporary occupied territories of the Autonomous Republic of Crimea, city of Sevastopol, and part of temporary occupied territories in Donetsk and Luhansk oblasts.*

*** Production output is shown in mass after enhancement.*

(c) Agricultural prices and price indices

The State Statistics Service of Ukraine develops and publishes the following indicators:

1. Sales of the produce by the agricultural enterprises and households (statistic indicators at the link: <http://www.ukrstat.gov.ua/operativ/>);
2. Average prices for agriculture products sold by businesses (1996 through 2021) (statistic indicators at the link: <http://www.ukrstat.gov.ua/operativ/operativ/>);
3. Price indices for agriculture products sold by businesses (1996 through 2021) (statistic indicators at the link: <http://www.ukrstat.gov.ua/operativ/operativ/>);
4. Price indices for agriculture products sold by the population (2010 through 2021) (statistic indicators at the link: <http://www.ukrstat.gov.ua/ind/>);
5. Indices of the physical volume of agriculture products sold by businesses (1997-2021) (statistic indicators at the link: <http://www.ukrstat.gov.ua/ind/>, <http://www.ukrstat.gov.ua/operativ/.xls>);
6. Indices of the physical volume of agriculture products sold by the population (2005-2021) (statistic indicators at the link: <http://www.ukrstat.gov.ua/operativ/.xls>);

In addition, current market prices for grain crops can be found on the website of the Agrarian Exchange at the link: <https://agrex.gov.ua/cini-na-zerno/>.

Directorates of Agro-Industrial Development under Oblast State Administrations (OSA) collect operational data on pricing policy (data are shown in the tables below).

Price situation on the grain and oilseeds market, as of 30.12.2020, according to operational data of the oblast state administration's agro-industrial development directorates

Domestic average purchase prices for the main types of agricultural products (excluding VAT), UAH per ton	
	change in % to the past:

		week	month	year
wheat Class II	7,629	+1	+1	+58
wheat Class III	7,575	+1	+2	+57
wheat Class IV	7,393	+1	+1	+58
Rye	5,458	+1	+3	+3
corn	6,822	-1	-3	+81
Class 3 barley	6,932	~	+6	+70
sunflower	18,210	+2	+10	+108
soybean	16,170	-1	+11	+91
rapeseed	13,019	~	-2	+28

*Price situation on the grain and oilseeds market, as of 03.12.2021,
according to operational data of the oblast state administration's agro-industrial
development directorates*

Domestic average purchase prices for the main types of agricultural products (excluding VAT), UAH per ton				
		change in % to the past:		
		week	month	year
wheat Class II	8,935	+2	+7	+17
wheat Class III	8,823	+2	+6	+16
wheat Class IV	8 258	+1	+6	+12
Rye	5,280	+3	+4	-3

corn	7,185	+1	+3	+5
Class 3 barley	7,370	+2	+6	+6
sunflower	19,237	~	+3	+6
soybean	15,477	~	+1	-4
buckwheat	24,025	+2	+3	+31
rapeseed	18,925	~	+1	+45

(d) Economic accounts for agriculture

The State Statistics Service of Ukraine develops and publishes the following indicators:

1. Economic accounts for agriculture (output account and income generation account) 2011-2020 (<http://www.ukrstat.gov.ua/operativ/.xlsx>);
2. Indices of agriculture products 1991-2020 (statistic indicators at the link: <http://www.ukrstat.gov.ua/operativ/>);
3. Agriculture products in fixed prices (statistic indicators at the link: <http://www.ukrstat.gov.ua/operativ/constant/>);
4. Labour productivity in enterprises which carried out agriculture operations 1990-2019 (statistic indicators at the link: <http://www.ukrstat.gov.ua/operativ/labor>, <http://www.ukrstat.gov.ua/operativ/labor2>);
5. 2016 fixed prices for agriculture products (five-year periodicity of collecting information) (statistic indicators at the link: <http://www.ukrstat.gov.ua/operativ/.xls>).

(e) Organic farming

During the last five years, the data on the area of land under organic farming in Ukraine and the number of producers engaged in organic farming is collected by the Ministry responsible for formation and implementation of the state policy in organic farming (the Ministry of Agrarian Policy and Food of Ukraine before August 2019, the Ministry of Economy of Ukraine between August 2019 and February 2022, from February 2022 the Ministry of Agrarian Policy and Food of Ukraine continues this work).

Monitoring is done on a yearly basis by means of collecting information from foreign certification authorities which have certified organic production and circulation of organic products in Ukraine by standards equivalent to the EU legislation on organic farming and, since 2019, also the US legislation. Operational monitoring data is presented at the organic map of Ukraine (in the paragraph 18b). Currently the monitoring of the data for 2021 is in progress. Collected data will be publicized at the official web-site of the responsible Ministry.

(f) Structure of orchards and vineyards

According to the State Statistics Service of Ukraine, the total area of fruit and berry plantations operated by producers of all categories were 219,000 ha as of 01.01.2022. The breakdown of the total area by major fruit and berry crops is as follows:

2. Pome fruits, of which:
 - a. Apple trees: 94,900 ha;
 - b. Pear trees: 13,000 ha;
3. Stone fruits, of which:
 - a. Apricot trees: 8,400 ha;
 - b. Sour cherry trees: 21,900 ha;
 - c. Sweet cherry trees: 11,600 ha;
 - d. Plum trees: 20,100 ha;
 - e. Cherry plum trees: 1,200 ha.
4. Berries, of which:
 - a. Raspberry and blackberry bushes: 5,500 ha;
 - b. Strawberry and wild strawberry: 8,600 ha;
 - c. Black currant: 4,300 ha;
 - d. Blueberry: 1,200 ha;
 - e. Walnut trees: 18,700 ha;
 - f. Hop: 400 ha.

According to the State Statistics Service of Ukraine, the total output of fruit and berries for producers of all categories was:

5. 2,007,000 tons in 2016;
 6. 2,048,000 tons in 2017;
 7. 2,571,000 tons in 2018;
 8. 2,119,000 tons in 2019;
 9. 2,024,000 tons in 2020;
 10. 2,240,000 tons in 2021;
- the total output of grapes was:
- 377,800 tons in 2016;
 - 409,600 tons in 2017;
 - 467,600 tons in 2018;
 - 366,300 tons in 2019;
 - 281,000 tons in 2020;
 - 235,300 tons in 2021.

According to the State Statistics Service of Ukraine, in 2021, the total area of vineyards for producers of all categories was 39,100 ha, and the total output amounted to 281,000 tons. There are 144 vine producers of which 29 are small ones.

Pursuant to the Law of Ukraine “On Grapes and Grape Wine”, enterprises engaged in grape processing are bound, every year after conclusion of the wine production season but no later than on December 1st, to provide the central executive body responsible for implementing the government policy in the sphere of statistics (i.e. the State Statistics Service) with information on the volume of

grapes processing, production of wine materials by groups, use and balances of alcohol in a form set forth by the said authority.

According to the data of the State Statistics Service, wine production totalled to 9.0 million dal in 2020. At that, USD 21,200,000 and USD 254,000,000 worth wine was exported and imported, respectively.

(g) Agriculture and environment

The State Statistics Service of Ukraine generates information on the amount of fertilizers and other agrochemicals, pesticides and areas on which they were used by agricultural producers as well as development patterns of these indicators. This information is used to make an analysis of man-made burden on soils. Major statistical indicators include: area of land on which fertilizers/pesticides are applied; percentage of the area where fertilizers/pesticides are used; amount of fertilizers/pesticides used; amount of fertilizers/pesticides used per 1 ha of cultivated land; area of land where biological plant protection means are applied; area of land where soil fertility improvement agents are used (you can view statistical indicators here <http://www.ukrstat.gov.ua/operativ>).

The State Statistics Service also generates information on the application of organic and inorganic fertilizers and other agrotechnical works for the harvest of agricultural crops.

Main statistical indicators: volumes of applied mineral fertilizers by types (total and per 1 ha of area) for the main types of agricultural crops; volumes of applied organic fertilizers (total and per 1 ha of area) for the main types of agricultural crops; share of fertilized areas by types of fertilizers and agricultural crops; areas where liming and plastering of soils was carried out, plant protection products were applied in agricultural enterprises (you can see the statistical indicators at the link <http://www.ukrstat.gov.ua/operativ.xls>).

(h) Agriculture trade

The State Statistics Service of Ukraine collects the following groups of indicators:

1. Foreign trade in goods (including commodity structure, dynamics of the geographic structure of foreign trade in goods);
2. Season-adjusted volumes of foreign trade in goods;
3. Export-import of goods by number of employees;
4. Foreign trade in services.

More details in the statistic indicators can be found at: <http://www.ukrstat.gov.ua/zed>.

In particular, the information on the commodity pattern of foreign trade with the EU (collected annually) is provided below.

Commodity Pattern of Foreign Trade of Ukraine with EU, 2021¹

	Exports	Imports
--	---------	---------

<i>Commodity code and title by Ukrainian Classification of Commodities in Foreign Trade in Ukrainian</i>	USD ,000	<i>As % of 2020</i>	<i>As % of the total volume</i>	USD ,000	<i>As % of 2020</i>	<i>As % of the total volume</i>
Total	26794664.7	149.4	100.0	28946051.8	125.2	100.0
<i>of which</i>						
<i>I. Live animals and livestock products</i>	395972.6	131.0	1.5	751908.9	122.8	2.6
<i>01 live animals</i>	800.1	76.6	0.0	89480.5	113.0	0.3
<i>02 meat and meat preparations</i>	198225.9	154.9	0.7	202370.7	136.8	0.7
<i>03 fish and crustacea</i>	35547.0	137.5	0.1	107115.4	118.7	0.4
<i>04 milk and milk products; eggs; honey</i>	149519.1	107.1	0.6	343881.7	119.0	1.2
<i>05 other animal products</i>	11880.5	151.8	0.0	9060.6	153.5	0.0
<i>II. Plant products</i>	3835672.1	122.3	14.3	658381.1	106.2	2.3
<i>06 living trees and other plants</i>	4968.9	234.8	0.0	60701.1	151.6	0.2
<i>07 vegetables</i>	60129.5	77.7	0.2	106545.7	112.7	0.4
<i>08 eatable fruits and nuts</i>	310041.4	169.7	1.2	112202.1	86.2	0.4
<i>09 coffee, tea</i>	4366.8	119.5	0.0	109964.4	101.9	0.4
<i>10 cereals</i>	1934819.9	116.3	7.2	91862.5	99.0	0.3
<i>11 flour-grinding products</i>	22312.5	125.0	0.1	17204.0	136.4	0.1
<i>12 oil seeds and fruits</i>	1479179.5	129.2	5.5	146345.6	114.1	0.5
<i>13 shellac natural</i>	2202.3	839.8	0.0	13446.1	101.0	0.0
<i>14 plant materials for producing</i>	17651.3	40.1	0.1	109.5	207.7	0.0

<i>III.15 Animal or plant fats and oils</i>	2362502.6	135.3	8.8	88610.9	127.2	0.3
<i>IV. Finished food industry products</i>	1080218.6	113.4	4.0	2262795.7	121.0	7.8
<i>16 preparations from meat, fish</i>	7766.9	168.8	0.0	80885.5	123.7	0.3
<i>17 sugar and sugar confectionery</i>	95897.4	118.3	0.4	80702.2	179.6	0.3
<i>18 cocoa and cocoa preparations</i>	76114.3	113.3	0.3	259502.7	114.2	0.9
<i>19 preparations of grains</i>	141328.1	128.9	0.5	248900.7	120.0	0.9
<i>20 products of vegetables processing</i>	88062.8	87.0	0.3	131607.6	121.2	0.5
<i>21 other mixed foodstuffs</i>	68518.0	116.2	0.3	385882.0	119.1	1.3
<i>22 alcoholic and non-alcoholic beverages, vinegar</i>	122096.5	183.6	0.5	410786.0	122.5	1.4
<i>23 remains and wastes of food industry</i>	472919.4	103.3	1.8	287066.8	123.0	1.0
<i>24 tobacco and industrial substitutes of tobacco</i>	7515.2	124.5	0.0	377462.4	116.4	1.3

(i) Rural development

The State Statistics Service of Ukraine gathers the following information regarding agricultural activities of households in rural areas:

1. Major indicators of agricultural activities of households in rural areas (statistic indicators at the link: <http://www.ukrstat.gov.ua/operativ>);
2. Major agriculture characteristics of households in rural areas (statistic indicators at the link: <http://www.ukrstat.gov.ua/operativ>);
3. Private subsidiary farms (statistic indicators at the link: <http://www.ukrstat.gov.ua/operativ>).

In addition, Ukraine monitors the implementation of State Regional Policy. The procedure and methodology for conducting such monitoring were approved by Resolution of the Cabinet of Ministers of Ukraine No. 856 of 21 October 2015 "On approval of the procedure and methodology for monitoring and evaluating the effectiveness of state regional policy implementation".

Monitoring of socio-economic development of regions - calculation of the rating assessment (ranking) of regions for each direction of certain indicators and calculation of the integral rating assessment of each region as a whole in all directions.

- * quarterly - according to the list of 27 assessment indicators;

- * annually-according to the list of 64 assessment indicators.

During quarterly monitoring, the assessment is carried out according to 27 indicators that characterize the situation in 6 directions in various areas of socio-economic development of the regions (economic efficiency, investment development and foreign economic cooperation, financial self-sufficiency, labor market efficiency, infrastructure development, renewable energy and energy efficiency).

During the annual monitoring, the assessment is carried out on 64 indicators that characterize the situation in 12 directions in various areas of socio-economic development of the regions (economic and social cohesion, economic efficiency, investment and innovation development and foreign economic cooperation, financial self-sufficiency, development of small and medium-sized businesses, labor market efficiency, infrastructure development, renewable energy and energy efficiency, availability and quality of educational, healthcare services, social protection and safety, efficient use of natural resources and quality of the environment).

Thus, in the quarterly monitoring of socio-economic development of regions, among other things, such indicators as the consumer price index (percent), the index of agricultural production (percent compared to the previous year) and the volume of agricultural production per 100 hectares of agricultural land (Hryvnia) are evaluated.

Annual monitoring includes an assessment of the indicators listed in quarterly monitoring, expanding this list with such indicators as: the volume of agricultural production per 100 hectares of agricultural land (Hryvnia), the overall retirement rate of the rural population, per 10 thousand (persons of the existing rural population), the share of rural households that have access to the Internet at home (percent of the total number of such households), the share of full-time educational institutions in rural areas that use computer equipment connected to the Internet in the educational process (percent of the total number of such institutions) and the share of children in rural areas for which transportation to the place of study and home is organized (percent of the total number of students who need it).

Submission of quarterly monitoring results: until the 15th day of the third month following the reporting period, the Ministry of Communities and Territories Development of Ukraine summarizes and submits to the Cabinet of Ministers of Ukraine, publishes on its website.

Submission of the results of annual monitoring: every year until May 15, the Ministry of Communities and Territories Development of Ukraine summarizes and submits to the Cabinet of Ministers of Ukraine, publishes on its website.

You can find the results of quarterly and annual monitoring on the website of the Ministry of Communities and Territories Development of Ukraine at the link: <https://www.minregion.gov.ua/monitorynh>.

23. For each data collection, please mention the variables, methodology, frequency, and geographical level at which the data are representative. Please also provide a link to the publication of the data.

The State Statistics Service of Ukraine performs the following statistical surveys for agriculture: land areas, gross yield of agricultural crops, including on reclaimed lands (monthly, yearly), the use of fertilisers and pesticides (yearly), animal production, the number of farm animals (monthly, yearly), processing grape for obtaining wine materials (yearly), the supply of farm animals, milk (quarterly), cereal and oil crops (monthly) to processing companies, the stocks of cereal and oil crops, volumes and average prices for agricultural product sales by producers (monthly), prices for products used in agricultural production (yearly), the availability of agricultural machinery (once per five years), costs and efficiency of agricultural production (yearly), volumes of agricultural products in constant prices (monthly, yearly), economic accounts for agriculture and balances for plant cultivation and animal husbandry basic products (yearly).

Almost all agricultural statistical indicators cover both agricultural enterprises, which produce about 65% of agricultural gross output, and households (about 35 % of gross output). Rural households are selectively surveyed on a monthly basis in terms of their agricultural activities. Enterprises, depending on their size, shall submit reports using an established format to state statistics authorities on a monthly and yearly basis.

All state statistical surveys are performed in accordance with the approved guidelines and recommendations published on the official website of the State Statistics Service of Ukraine: <http://www.ukrstat.gov.ua/metod>.

A list of indicators, relevant explanations for respondents, and a list of respondents are established at the state level. Respondents provide information mainly in an electronic format. When data is entered and processed, the quality of initial information is checked in terms of logic and arithmetic. Where applicable, data is corrected with the participation of respondents and historical data is updated.

All the results of statistical surveys (in Ukrainian and English) are published on the official website of the State Statistics Service of Ukraine within a period approved by a plan for state statistical surveys: <http://www.ukrstat.gov.ua/operativ/menu>, <http://www.ukrstat.gov.ua/operativ>, <http://www.ukrstat.gov.ua/druk>.

Under statistical surveys, the confidentiality of initial statistical data provided by respondents is ensured. Reports on the quality of state statistical surveys are produced and disseminated on the official website of the State Statistics Service of Ukraine: http://www.ukrstat.gov.ua/suya/st_zvit.

When state statistical surveys for agriculture are performed, the Nomenclature of Agricultural Products is used. It ensures the comparison with categories CPA, ver. 2.1 (2015) and takes into account the lists of agricultural products identified by EU Regulations No. 543/2009 (as amended), No. 1337/2011, No. 1165/2008, No. 2018/1091, No. 96/16/EC, and the UN FAO World Program for the Census of Agriculture.

24. In the following table, please provide an overview of the agricultural sector based on available statistics

Area of Agricultural Lands (as of the End of a Year; ,000 ha)

	2010	2015	2016	2017	2018	2019
Agricultural land	41576.0	41507.9	41504.9	41489.3	41329.0	41310.9
Including:						
Arable land	32476.5	32541.3	32543.4	32544.3	32698.5	32757.3
Hayfields	5481.9	2406.4	2402.9	2399.4	2294.4	2283.9
Grazing fields	2410.9	5434.1	5430.9	5421.5	5282.6	5250.3
Abandoned fields	310.2	233.7	230.6	229.3	190.5	166.7
Perennial crop plantations	896.5	892.4	897.1	894.8	863.0	852.7

** According to the data of the State Service of Ukraine for Geodesy, Mapping and Cadastre*

Resident Population (as of January 1st; ,000 People)

	2010	2015¹	2017¹	2018¹	2019¹	2020¹	2021¹
Rural population	14513.4	13325.3	13171.4	13084.6	12965.7	12832.2	12698.0
Male	6789.2	6284.7	6225.9	6194.4	6148.0	6093.5	6037.1
Female	7724.2	7040.6	6945.5	6890.2	6817.7	6738.7	6660.9
Rural population as a percentage of the total population (%)	31.7	31.2	31.1	31.0	30.9	30.7	30.7
Male	32.2	31.8	31.7	31.7	31.6	31.5	31.5
Female	31.3	30.6	30.5	30.4	30.3	30.1	30.0
Rural population in the 16-59 age bracket	8584.9	7911.9	7792.1	7707.6	7605.9	7495.4	7386.7
Male	4331.9	4007.0	3945.2	3905.4	3858.5	3807.4	3756.4

Female	4253.0	3904.9	3846.9	3802.2	3747.4	3688.0	3630.3
Rural population in the 16-59 age bracket as a percentage of the total rural population (%)	59.2	59.4	59.2	58.9	58.7	58.4	58.2
Male	63.8	63.8	63.4	63.0	62.8	62.5	62.2
Female	55.1	55.5	55.4	55.2	55.0	54.7	54.5

¹ The data does not take into account temporary occupied territories of the Autonomous Republic of Crimea, city of Sevastopol. The population data are calculated (estimated) based on available administrative data on state registration of births, deaths, and changes of places of registration.

Breakdown of enterprises¹ engaged in agricultural activity, by agricultural land's size as of November 1, 2020

	Number of enterprises		Area of agricultural land		
	Units	As Percentage of the total number	,000 ha	As percentage of the total area of agricultural land	

Enterprises

Підприємства, що мали с/г угіддя	36277	76.3	20252.4	100.0	<i>Enterprises, which had agricultural land</i>
у т.ч. площею, га					<i>including those with land area up to 5.00 ha</i>
до 5,00	1975	4.2	6.4	0.0	
5,01–10,00	1877	3.9	14.7	0.1	<i>5.01–10.00</i>
10,01–20,00	3061	6.4	47.7	0.2	<i>10.01–20.00</i>
20,01–50,00	9395	19.7	353.3	1.7	<i>20.01–50.00</i>
50,01–100,00	4626	9.7	333.0	1.6	<i>50.01–100.00</i>
100,01–500,00	7889	16.6	1928.1	9.5	<i>100.01–500.00</i>
500,01–1000,00	2716	5.7	1957.9	9.7	<i>500.01–1000.00</i>

	<i>Number of enterprises</i>		<i>Area of agricultural land</i>		
	<i>Units</i>	<i>As Percentage of the total number</i>	<i>,000 ha</i>	<i>As percentage of the total area of agricultural land</i>	
1000,01–2000,00	2409	5.1	3458.9	17.1	<i>1000.01–2000.00</i>
2000,01–3000,00	1030	2.2	2500.3	12.4	<i>2000.01–3000.00</i>
3000,01–4000,00	473	1.0	1629.9	8.1	<i>3000.01–4000.00</i>
4000,01–5000,00	247	0.5	1099.2	5.4	<i>4000.01–5000.00</i>
5000,01–7000,00	263	0.6	1535.9	7.6	<i>5000.01–7000.00</i>
7000,01–10000,00	132	0.3	1107.0	5.5	<i>7000.01–10000.00</i>
більше 10000,00	184	0.4	4280.1	21.1	<i>more than 10000.00</i>
Підприємства, що не мали с/г угідь	11246	23.7	x	x	<i>Enterprises, which did not have agricultural land</i>
<i>Including private farms:</i>					
Господарства, що мали с/г угіддя	26691	83.8	4817.8	100.0	<i>Farms which had agricultural land</i>
у т.ч. площею, га					<i>including those with land area up to 1,00 ha</i>
до 1,00	74	0.2	0.1	0.0	
1,01–3,00	742	2.3	1.7	0.0	<i>1.01–3.00</i>
3,01–5,00	985	3.1	4.2	0.1	<i>3.01–5.00</i>
5,01–10,00	1729	5.4	13.6	0.3	<i>5.01–10.00</i>
10,01–20,00	2797	8.8	43.7	0.9	<i>10.01–20.00</i>
20,01–50,00	8795	27.6	332.4	6.9	<i>20.01–50.00</i>
50,01–100,00	3947	12.4	282.5	5.9	<i>50.01–100.00</i>
100,01–500,00	5369	16.9	1258.3	26.1	<i>100.01–500.00</i>
500,01–1000,00	1262	4.0	897.7	18.6	<i>500.01–1000.00</i>
1000,01–2000,00	690	2.2	951.3	19.8	<i>1000.01–2000.00</i>
2000,01–3000,00	171	0.5	411.1	8.5	<i>2000.01–3000.00</i>
3000,01–4000,00	65	0.2	219.2	4.6	<i>3000.01–4000.00</i>
більше 4000,00	65	0.2	402.0	8.3	<i>more than 4000.00</i>

	Number of enterprises		Area of agricultural land		
	Units	As Percentage of the total number	,000 ha	As percentage of the total area of agricultural land	
Господарства, що не мали с/г угідь	5160	16.2	x	x	Farms which did not have agricultural land

¹ Information shown in the table concerns enterprises carrying out the following core operations: “Growing annual and biennial crops”, “Growing perennial crops”, “Plant reproduction”, “Animal production”, “Mixed agriculture”, and “Auxiliary operations in agriculture and post-harvest operations”.

Animal production (livestock population)

As of 01.01.2022, the cattle population held by producers of all categories was 2,662,800 heads, which was by 24.6 per cent less than that on 01.01.2018 (3,530,800 heads). Yearly reduction ranged from 5.6% to 7.2%.

As of 01.01.2022, the cattle population held by agricultural enterprises accounted for almost 38% of the total cattle population – 1,003,400 head, which was by 0.5% less than in the previous year and by 14% less than on 01.01.2018. It should be noted that this percentage keeps growing every year: by 2% as compared to 2021 and by 4% as compared to 2018.

Farms account for 10.3% of agriculture enterprises. As of 01.01.2021, farms kept 104,000 heads of cattle, which was by 0.7% more than in 2020 but by 2.3% less than in 2018 and 2019.

As of 01.01.2022, households kept 1,659,400 heads of cattle, which was by 29.8% less than on 01.01.2018 (2,364,200 heads) and by 11.8% less than on 01.01.2021. Yearly reduction ranged from 7.0% to 8.7%.

As of 01.01.2022, the total **cow population** was 1,555,300 heads, which was by 7% less than in 2021 and by 23.0% less than on 01.01.2018 (2,017,800 heads). Yearly reduction ranged from 4.9% to 6.5%.

As of 01.01.2022, agricultural enterprises kept 424,600 cows or 27.3% of the total cow population. This was by 0.2% more than in the previous year and by 8.9% less than on 01.01.2018. There was a small 0.4% increase in 2019 as compared to 2018. It is worth noting that the said percentage increases every year: by 2% as compared to 2021 and by 4% as compared to 2018.

Farms account for 10.3% of all agricultural enterprises. As of 01.01.2021 they kept 43,600 cows or by 1.6% more than in 2020 and 2019 and by 11.2% more as compared to 2018.

As of 01.01.2022, rural households kept 1,130,700 cows, which was by 27.1% less than on 01.01.2018 (1,551,200 heads) and by 9.5% less than on 01.01.2021. Yearly reduction ranged from 6.5% to 7.5%.

As of 01.01.2022, the **pig population** kept by all producers was 5,611,900 heads. The pig population grew by 2.3% in 2021 as compared to 2020.

As of 01.01.2022, agricultural enterprises kept almost 64% of the total pig population or 3,576,700 pigs, which was by 1.5% less than in the previous year and by 8.3% more as compared to 01.01.2018. The number of pigs in enterprises was almost the same in the years of 2019 and 2020 (3,395,600 and 3,300,100, respectively). It is worth noting that the percentage of pigs kept by enterprises increases every year: by 2% as compared to 2021 and by 17.7% as compared to 2018.

Farms account for 8.2% of agricultural enterprises. As of 01.01.2021 they kept 292,900 pigs which was by 3.1% more than in 2020 and by 22,6% more than in 2018.

As of 01.01.2022, rural households held 2,035,200 pigs, which was by 27.5% less as compared to 01.01.2018 (2,806,300 pigs) and by 9.4% less as compared to 01.01.2021. Year reduction ranged from 6.3% to 7.5%.

As of 01.01.2022, the **population of sheep and goats** held by producers of all categories amounted to 1,093,000 heads which was by 4.2% less than in 2021 and by 16.6% less than on 01.01.2018 (1,309,900 heads). The yearly reduction ranged from 3.2% to 5.3%.

As of 01.01.2022, agricultural enterprises held 15.5% of the entire population of sheep and goats or 169,100 heads, which was by 11.8% more as compared to the previous year and by 9.6% less as compared to 01.01.2018. The percentage of the sheep and goat population in the years of 2020 and 2021 went down by 0.4% as compared to 2019 and went up by 1.1% by 01.01.2022.

Farms account for 20.6% of agricultural enterprises. As of 01.01.2021, they kept 34,900 sheep and goats, which was by 3.3% less than in 2020 and by 24.5% less than in 2018.

As of 01.01.2022, rural households kept 923,900 sheep and goats, which was by 17.7% less than on 01.01.2018 (1,122,300 heads) and by 6.6% less than on 01.01.2021. The year-on-year reduction ranged from 3.2% to 4.6%.

As of 01.01.2021, the total **horse population** amounted to 202,000 heads which was by 10% less as compared to 2020 and by 23,7% less as compared to 01.01.2018 (264,900 heads). The year-on-year reduction 8,0+%.

As of 01.01.2021, agricultural enterprises kept almost 5.3% of all horses or 10,800 horses, which was by 13% less as compared to the previous year and by 36.5% less as compared to 01.01.2018. The year-on-year reduction of horses in the animal population structure is 0.3%. There are 800 horses in agricultural enterprises, which is by 20% fewer than in 2020 and by 42.9% fewer than in 2018.

As of 01.01.2021, rural households held 191,200 horses, which was by 22.9% less as compared to 01.01.2018 (247,900 horses) and by 9.8% less as compared to 01.01.2020. The year-on-year reduction ranged from 7.3% to 9.0%.

As of 01.01.2022, the total **poultry population** for producers of all categories amounted to 202,200,000 heads, which was by 0.8% less than in 2021 and by 1.3% less as compared to 01.01.2018 (204,800,000 heads). In the year of 2020, the poultry population went up by 4.2% in comparison with 2019 and went down by 9.0% in 2021.

As of 01.01.2022, poultry accounted for almost 56.1% of all animals kept by agriculture enterprises or 13,500,000 heads, which was by 3.4% more than in the previous year and by 0.9% more as compared to 01.01.2018. An increase in the poultry population was observed also in the year of 2020: by 7.6% as compared to 2019. The percentage of poultry in the total livestock population is

subject to changes: it went up by 1.4% in 2021, went down by 3.3% in 2020, and grew by 1.8% in 2019.

Farms accounted for 4.1% of agricultural enterprises. As of 01.01.2021, they kept 4,700,000 heads of poultry, which was by 4.4% more than in 2020 and by 46.9% more than in 2018.

As of 01.01.2022, rural households, kept 88,800,000 heads of poultry, which was by 3.8% less than on 01.01.2018 (92,300,000 heads) and by 2.4% less than on 01.01.2021. On 01.01.2019, rural households kept by 0.6% more poultry than a year before.

Livestock Population as of January 1st; ,000 heads)

Years	Cattle		Pigs	Sheep and Goats		Horses	Poultry of All Species
	Total	Including Cows		Total	Including Sheep		
All Producers							
2018	3530.8	2017.8	6109.9	1309.9	727.2	264.9	204830.9
2019	3332.9	1919.4	6025.3	1268.6	698.5	244	211654.4
2020	3092	1788.5	57327.4	1204.5	658.8	224.4	220485.8
2021	2874	1673	5876.2	1140.4	621	202	200651.9
2022	2662.8	1555.3	5611.9	1093	*	*	202243.1
Agricultural Enterprises							
2018	1166.6	466	3303.6	187	178.1	17	112512.3
2019	1138.1	467.8	3395.6	182.3	172.5	14.2	118812.9
2020	1049.5	438.6	3300.1	168.6	158.8	12.4	127773.2
2021	1008.4	423.9	3629.5	151.3	140.2	10.8	109737
2022	1003.4	424.6	3576.7	169.1	*	*	113478.9
Including Farms							
2018	106.5	39.2	238.9	46.2	40.4	1.4	3177.2
2019	106.3	42.8	255.4	43.8	36.6	1.1	4039.1
2020	103.3	42.9	284	36.1	28.7	1	4535.2
2021	104	43.6	292.9	34.9	26.2	0.8	4749.9
2022	*	*	*	*	*	*	*
Rural Households							
2018	2364.2	1551.2	2806.3	1122.3	549.1	247.9	92318.6
2019	2194.8	1451.6	2629.7	1086.3	526	229.8	92841.5

2020	2042.5	1349.9	2427.3	1035.9	500	212	92712.6
2021	1865.6	1249.4	2246.7	989.1	480.8	191.2	90914.9
2022	1659.4	1130.7	2035.2	923.9	*	*	88764.2

**Note: Currently, Information is missing on the web site of the State Statistics Service*

Crop Production (Major Crops)

Structure of area under agriculture crops used by producers of all ownership forms in 2017 through 2021 (,000 ha) ¹

Structure	2017	2018	2019	2020	2021
All areas under crops	27720.8	28099.1	28099.1	27720.8	28099.1
<i>Cereals, total</i>	15186.6	15455.9	15455.9	15186.6	15455.9
Winter cereal crops for grain	7454.8	7863.6	7863.6	7454.8	7863.6
Including: wheat and triticale	6328.1	6638.9	6638.9	6328.1	6638.9
Rye	120.5	143.7	143.7	120.5	143.7
Barley	1004.9	1079.7	1079.7	1004.9	1079.7
Other winter crops for grain*	1.7	1.3	1.3	1.7	1.3
<i>Spring cereal and pulse crops</i>	7748.3	7603.2	7603.2	7748.3	7603.2
Including: barley	1355.9	1367.8	1367.8	1355.9	1367.8
Wheat	166.7	170.3	170.3	166.7	170.3
Oat	164.7	162.6	162.6	164.7	162.6
<i>Pulse crops - total</i>	721.4	739.8	739.8	721.4	739.8
<i>Including: pea</i>	238.1	235.4	235.4	238.1	235.4
Buckwheat	78.2	79.1	79.1	78.2	79.1
Millet	150.2	116.3	116.3	150.2	116.3
Rice	11.4	10.7	10.7	11.4	10.7
Maize for grain	5448.2	5324.3	5324.3	5448.2	5324.3
Sorgo	50.0	44.8	44.8	50.0	44.8
Other grain crops **	13.9	16.0	16.0	13.9	16.0
<i>Technical crops - total</i>	9135.4	9150.3	9150.3	9135.4	9150.3
Including: Sugar beat	215.3	223.4	223.4	215.3	223.4
Sunflower	6387.9	6402.2	6402.2	6387.9	6402.2
Winter rape	1089.7	1008.3	1008.3	1089.7	1008.3
Spring rape	32.0	42.2	42.2	32.0	42.2

Soya	1339.5	1400.8	1400.8	1339.5	1400.8
Linen flax	3.5	2.6	2.6	3.5	2.6
Oil flax	12.5	13.0	13.0	12.5	13.0
Other technical crops***	52.6	55.8	55.8	52.6	55.8
Potato and vegetables - total	1638.6	1631.7	1631.7	1638.6	1631.7
Including: Potato	1164.7	1159.3	1159.3	1164.7	1159.3
Vegetables, melons and gourds	470.9	471.7	471.7	470.9	471.7
Feed crops - total	1581.0	1601.5	1601.5	1581.0	1601.5
Including: Maize for silage	229.0	234.6	234.6	229.0	234.6
Perennial grass	835.778	846.1	846.1	835.778	846.1
Annual grass (including winter grass)	287.3	296.6	296.6	287.3	296.6
Other feed crops****	225.1	224.2	224.2	225.1	224.2

¹Excluding temporary occupied territories of the Autonomous Republic of Crimea, city of Sevastopol and part of temporary occupied territories in Donetsk and Luhansk oblasts.

* *Triticale;*

** *Mixture of ear-forming crops, oat-and-vetch mixture for grain, and other crops.*

*** *Crown flax, tobacco, field beans, feed cabbage, crops grown for seeds, mustard, essential oil-bearing plants, phacelia, false flax, ricin, fennelflower, blue poppy, and other crops.*

**** *Feed root crops, sugar beet for feeding animals, feed root crops, turnip, and other crops.*

ATTACHMENT 1

**Extract from the distribution of
expenditures of the state budget of Ukraine for 2020**

												(thousand UAH)
Code of program classification of expenditures and credit provision of the state budget	Code for functiona l classifica tion of expendit ures and credit provision of the state budget	Name according to the departmental and program classifications of expenditures and credit provision of the state budget	General fund					Special fund				Total:
			Total	consu mptio n expen diture s	of them:	develop ment expendit ures	Total	consu mptio n expen diture s	of them:	develo pment expen ditures		

					remune ration of labor	utilities and energy				remun eration of labor	utilitie s and energ y		
1200000		Ministry of Development of Economy, Trade and Agriculture of Ukraine	14 583 983,30	7 549 454,3 0	4 644 513,40	83 129,60	7 034 529,00	2 490 651,40	1 648 295,8 0	754,2 71.70	98 091,7 0	842,3 55.60	17 074 634,70
1201050	482	Scientific and technical activities in the sphere of agro-industrial complex development , standardization and certification of agricultural products	71 290,30				71 290,30	65 448,00				65 448,0 0	136,73 8.30
1201060	950	Professional development of specialists of agro-industrial complex	12 235,40	12 235,4 0	9 077,90	813.4		11 621,20	11 131,8 0	5 604,6 0	1 710,0 0	489.4	23 856, 60

1201090	421	Financial support for events in the agro-industrial complex						5 000,00				5000,00	5000,00
1201110	421	Expenses of the Agrarian Fund are related to a set of storage measures, transportation, processing and export of objects of the state price regulation of the state intervention fund						89 100,00	89 100,00				89 100,00
1201150	421	Financial support of agricultural producers	4 000 000,00				4 000 000,00						4 000 000,00
1201270	421	Organization and regulation of activities of	93 490,30	93 490,30	73 719,10	1 373,70		55 000,00	36 172,50	6 000,00	688,5	18 827,50	148,490.30

		institutions in the system of agro-industrial development complex and support of activities of Agrarian Fund											
--	--	---	--	--	--	--	--	--	--	--	--	--	--

Information
on funding expenditures of the Ministry of Agrarian Policy and Food of Ukraine
at the expense of the general fund of the state budget
according to the monthly schedule of allocations of the state budget of Ukraine for 2021

						<i>(thousand UAH)</i>		
Codes	Name of expenses according to the program classification	Approved by the annual schedule for 2021 (with changes)	Allocations of the State Treasury Service of Ukraine	Actually directed by the distribution of open allocations as of 23.12.2021		Deviations		
				Total	of these 23.12.2021	Underfunded (gr.5 -gr.3)	Outstanding balance (gr.5 -gr.6)	% allocated out of approved for year
1	2	3	5	6	7	8	9	10
280000	TOTAL	6 924 770.4	6 924 770.4	6 789 858.9	315,771.2	0.0	134,911.5	98.1
General fund								
	Total	6 874 770.4	6 874 770.4	6 739 858.9	315,771.2	0.0	134,911.5	98.0
2801000	Office of the Ministry of Agrarian Policy and Food of Ukraine	4 927 251.9	4 927 251.9	4 927 361.8	303,626.5	0.0	-109.9	100.0

2801010	Administration and management in the field of agro-industrial complex	68 381.9	68 381.9	68 381.9		0.0	0.0	100.0
2801050	Scientific and technical activities in the field of development of the agro-industrial complex, standardization and certification of agricultural products	69 386.1	69 386.1	69 520.7		0.0	-134.6	100.2
2801130	Advanced training for specialists of the agro-industrial complex	14 835.6	14 835.6	14 835.6		0.0	0.0	100.0
2801310	Organization and regulation of the activities of institutions in the agro-industrial complex system	109,648.3	109,648.3	109,648.3		0.0	0.0	100.0
2801580	Financial support for agricultural producers, including:	4 665 000.0	4 665 000.0	4 664 975.3	303,626.5	0.0	24.7	100.0
	Partial compensation of the cost of agricultural machinery and equipment of domestic production	991 354,8		991 354,7			0.1	100.0

	Financial support for activities in the agro-industrial complex by reducing the cost of loans, including:	1 202 555.8		1 202 555.8			0.0	100.0
	- repayment of budget accounts payable registered with the Treasury bodies as a result of the execution of court decisions	2 555.8		2 555.8			0.0	100.0
	Providing additional financial support to family farms through the mechanism of additional payment in favor of insured persons - members/chairman of the family farm of a single contribution to mandatory state social insurance	628.3		628.2			0.1	100.0
	Reimbursement of expenses related to damage to agricultural crops due to man-made and natural emergencies	107,910.5		107,910.5			0.0	100.0

State support for agricultural producers by allocating budget subsidies per unit of cultivated land	50 000.0		50 000.0	50 000.0		0.0	100.0
State support for potato producers	53 215.0		53 214.6	53 214.6		0.4	100.0
State support for agricultural producers using reclaimed land	16 746.0		16 745.9	16 745.9		0.1	100.0
State support for the development of animal husbandry and processing of agricultural products, including:	1 609 573.0		1 609 572.9	183,666.0			100.0
- partial reimbursement of up to 80% of the cost of purchased breeding (genetic) resources (in particular heifers, calves, cows of dairy, dairy-meat and meat direction of productivity, pigs and boars, sheep, rams, young ewes, goat mother stock, goats, bee packages, queen bees, sperm of bulls and boars and embryos of cattle that	527,497.5		527,497.5			0.0	100.0

	have breeding (genetic value);							
	- special budget subsidy for the maintenance of goats, goat mother stock, young ewes, ewes	50 000.0		50 000.0			0.0	100.0
	- special budget subsidy for increasing the number of cows of own reproduction	100,000.0		100,000.0			0.0	100.0
	- special budget subsidy for existing bee colonies	240,000.0		240,000.0			0.0	100.0
	- partial reimbursement of the cost of construction and/or reconstruction of livestock farms and complexes, fish farms, milking parlors, agricultural processing enterprises	491,049.5		491,049.5			0.0	100.0

- partial compensation for the cost of construction and/or reconstruction of livestock farms and complexes, milking parlors, agricultural processing enterprises in terms of expenses financed without value-added tax at the expense of bank loans	17 360.0		17 359.9			0.1	100.0
partial reimbursement of the cost of construction and/or reconstruction of grain storage and processing enterprises	183,666.0		183,666.0	183,666.0		0.0	100.0
Financial support for the development of horticulture, viticulture and hop growing	512,228.0		512,228.0			0.0	100.0
Financial support for the development of farms; out of those:	120,788.6		120,764.6	0.0		24.0	100.0
- special budget subsidy for the maintenance of cows of all areas of productivity to a farm that owns at least five cows identified and registered in accordance with the legislation	57 635.0		57 635.0			0.0	100.0

	- financial support for newly created farms to receive agricultural advisory services	2 778.6		2 773.7			4.9	99.8
	- budget subsidy per unit of cultivated land (1 hectare) - to newly created farms	60 000.0		60 000.0			0.0	100.0
	- partial compensation of expenses to farms related to agricultural advisory services provided (except for newly created ones)	375.0		356.0			19.0	94.9
2803000	State Service of Ukraine for Geodesy, Cartography and Cadastre	1 520 982.5	1 520 982.5	1 390 261.1	12 144.7	0.0	130,721.3	91.4
2803010	Administration and management in the field of Geodesy, Cartography and Cadastre	1 254 574.5	1 254 574.5	1 251 959.1	12 144.7	0.0	2 615.4	99.8
2803020	Implementation of Land reform	51 396.2	51 396.2	51 396.2		0.0	0.0	100.0
2803030	National topographic, geodetic and cartographic works, demarcation and delimitation of the state border	31 577.3	31 577.3	3 894.9		0.0	27 682.4	12.3

2803620	Conducting land inventory and updating the cartographic basis of the State Land Cadastre	183,434.5	183,434.5	83 010.9		0.0	100,423.5	45.3
2804000	State Agency for Melioration and Fisheries of Ukraine	426,536.0	426,536.0	422,236.0	0.0	0.0	4 300.0	99.0
2804010	Administration and management in the field of Fisheries	320,336.1	320,336.1	320,336.1		0.0	0.0	100.0
2804020	Organization of activities of fish breeding complexes and other budgetary institutions in the field of Fisheries	99 599.9	99 599.9	99 599.9		0.0	0.0	100.0
2804030	Scientific and technical activities in the field of fisheries	2 300.0	2 300.0	2 300.0		0.0	0.0	100.0
2804090	International fisheries activities	4 300.0	4 300.0	0.0		0.0	4 300.0	0.0
Special Fund								
2801460	Providing loans to farms	50 000.0	50 000.0	50 000.0		0.0	0.0	100.0

Effective Free Trade agreements are as follows:

One of the largest free trade agreements is the Association Agreement between Ukraine and the European Union, and Deep and Comprehensive Free Trade Area (DCFTA) that was simultaneously ratified by the Verkhovna Rada of Ukraine and the European Parliament on 16 September, 2014 (entered into force on 01 September, 2017). The Agreement includes provisions on the liberalization of trade in agricultural products, and also provides for the bilateral application of quotas.

Political, Free Trade and Strategic Partnership Agreement between the United Kingdom of Great Britain and Northern Ireland and Ukraine (ratified by the Law of Ukraine of 16 December 2020, Reg. No. 1100-IX).

Free Trade Agreement between Ukraine and the EFTA States (Switzerland, Norway, Iceland and Liechtenstein) (ratified by the Law of Ukraine of 07 December 2011, Reg. No. 4091-VI, entered into force on 01 June, 2012).

Free Trade Agreement between Ukraine and the Republic of Northern Macedonia (ratified by the Law of Ukraine of 5 July, 2001, Reg. No. 2599-III, entered into force on 10 September, 2001).

Free Trade Agreement between the Government of Montenegro and the Government of Ukraine (ratified by the Law of Ukraine of 16 October 2012, Reg. No. 5445-VI, entered into force on 01 January, 2013).

Free Trade Agreement between Canada and Ukraine (ratified by the Law of Ukraine dated of 14 March 2017, Reg. No. 1917-VIII, entered into force on 01 August, 2017).

Free Trade Agreement between the Government of the State of Israel and the Cabinet of Ministers of Ukraine (ratified by the Law of Ukraine dated of 11 July, 2019, Reg. No. 2753-VIII, entered into force on 1 January, 2021).

Free Trade Agreements that have not entered into force are as follows:

Free Trade Agreement between the Government of the Republic of Turkey and the Government of Ukraine.

On 3 February, 2022, during the Tenth meeting of the High-Level Strategic Council between Ukraine and the Republic of Turkey chaired by Mr. Volodymyr Zelensky, President of Ukraine, and Mr. R. Erdogan, President of the Republic of Turkey, the Free Trade Agreement was signed between the Government of the Republic of Turkey and the Government of Ukraine.

In accordance with the provisions of Article 9 of the Law of Ukraine “On International Agreements” of 29 June, 2004, Reg. No. 1906-IV, the Ministry of Economy of Ukraine started the procedure of preparing a proposal for ratification of the Agreement by developing a relevant legal act.

ATTACHMENT 3

Information on state support for the livestock industry for the period 2016-2021years

pos. no.	Direction of using funds	2016			2017			2018			2019			2020			2021			TOTAL	
		Number of recipients (business entities/individuals)	Grant objects/ reimbursement/compensation	Funds allocated, totally, thousand UAH	Number of recipients (business entities/individuals)	Objects of subsidy / reimbursement / compensation	Funds allocated, totally, thousand UAH	Number of recipients (business entities/individuals)	Grant objects/ reimbursement/compensation	Funds allocated, totally, thousand UAH	Number of recipients (business entities/individuals/heads)	Objects of subsidy / reimbursement / compensation	Funds allocated, totally, thousand UAH	Number of recipients (business entities/individuals/heads)	Objects of subsidy / reimbursement / compensation	Funds allocated, totally, thousand UAH	Number of recipients (banks/business entities/individuals/heads)	Objects of subsidy / reimbursement / compensation	Funds allocated, totally, thousand UAH	Number of recipients (banks/business entities/individuals/heads)	Funds allocated, totally, thousand UAH
1	Interest compensation	x	x	x	x	x	x	4	5	3 747.7 1	7	8	9 724.94	x	x	x	x	x	x	11	13 472.65
2	Compensation for the cost of objects, financed by the bank loans	x	x	x	x	x	x	7	7	62 926.1 1	9	11	75 000.00	3	3	770. 98	1	1	17 359. 93	20	156,05 7.02
3	Subsidy for keeping cows	x	x	x	x	x	x	1 272	397,60 9	514,5 03.75	1 074	358,92 9	531,23 3.10	x	x	x	x	x	x	2 346	1 045 736.85
4	Subsidy for livestock growth	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	229	10 thous and cows	100, 000. 00	229	100,00 0.00

5	Subsidy for keeping goats and sheep	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	158	6207 goats 53678 sheeps	50 000.00	158	50 000.00
6	Subsidy for young animals	x	x	x	x	x	x	152,503	272,471	320,864.90	230,925	440,735	615,469.80	x	x	x	x	x	x	383,428	936,334.70
7	Subsidy for bee colonies	x	x	x	x	x	x	x	x	x	x	x	x	23 466	1198.99 thousand bees.	239,798.80	39 754	18,590 bee colonies/ 2,176,877 bee colonies	240,000.00	63 220	479,798.80
8	Partial reimbursement of the cost of breeding animals, bees, sperm and embryos	47	x	29 585.70	63	x	11 655.00	200	70 farms/ 8516 cattle 45 farms/ 4957 pigs 7 farms/ 619 sheeps 130 farms/ 172358 doses of gen.res.	214,572.47	250	70 farms/ 6262 cattle 26 farms / 5532 pigs 5 farms / 781 sheeps 197 farms/ 257900 doses of gen.res.	150,000.00	306	306 farms/ 12617 cattle (heifers, calf, cows) 5930 pigs (boars, pigs) / 6782 sheeps (sheeps, rams, young ewes) 60 heads bee packages 336.2 thousand doses (bull sperm) 60 doses gen.res. (boar semen)	300,000.00	471	Cattle - 11,913; pigs- 6,514; sheeps- 6,711 goats -864; bee packages, queen bees - 711 pcs; genetic material - 404.3 thousand and	527,497.50	1 227	1 233 310,67

																		dose s.			
9	Partial reimbursement of the cost of objects	x	x	x	x	x	x	28	51	1 276 679.90	35	49	526,00 0.00	39	59	430, 584. 00	43	65	491, 049. 50	145	2 724 313.40
10	Partial reimbursement of the cost of grain storage and processing facilities	x	x	x	x	x	x	x	x	x	55	61	526,26 1.58	15	15	69 466. 37	14	15	183, 666. 00	84	779,393. 95
11	Repayment of budget accounts payable	x	x	x	x	x	154,18 4.50	x	x	x	x	x	x	52	x	102. 60	0	0	0.00	52	154287. 10
	Debiting funds by court decision	x	x	400.00	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	400.00
Total:		x	x	29 985,70	x	x	165 839,50	154 014	x	2 393 294.84	232,355	x	2 433 689.42	23 881		1 040 722. 75	40 670	x	1 609 572. 93	450,920	7 673 105.14